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**POST-WAR ECONOMIC POLICY AND PLANNING**

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**JOINT HEARINGS**

BEFORE THE

**SPECIAL COMMITTEES ON POST-WAR ECONOMIC  
POLICY AND PLANNING**

**CONGRESS OF THE UNITED STATES**

**SEVENTY-EIGHTH CONGRESS**

**SECOND SESSION**

**PURSUANT TO**

**S. Res. 102 and H. Res. 408**

**RESOLUTIONS CREATING SPECIAL COMMITTEES  
ON POST-WAR ECONOMIC POLICY  
AND PLANNING**

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**PART 1**

**JUNE 16 AND 20, 1944**

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**DISPOSAL OF SURPLUS GOVERNMENT  
PROPERTY AND PLANTS**

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Printed for the use of the Special Committees on Post-War  
Economic Policy and Planning



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## CONTENTS

---

	Page
Hearings:	
Friday, June 16, 1944.....	1
Tuesday, June 20, 1944.....	43
Testimony of—	
Adams, Russell B., Assistant Director, Economic Bureau, Civil Aero- navics Board.....	55
Clay, Maj. Gen. Lucius D., Director of Matériel, Army Service Forces, Department of War.....	46
Clayton, William L., Surplus War Property Administrator.....	8
Cox, Hugh B., Assistant Attorney General, Department of Justice....	63
Fleming, Maj. Gen. Philip B., Administrator, Federal Works Agency... Hawes, Alexander, assistant general counsel, War Production Board... Jackson, Wayne, Office of Wartime Economic Administration, State Department.....	49 45 54
Klagsbrunn, Hans, Deputy Director, Surplus War Property, Reconstruc- tion Finance Corporation.....	51
Leland, Robert, Office of the General Counsel, Foreign Economic Administration.....	52
Maverick, Maury, Chairman, Board of Directors, Smaller War Plants Corporation.....	55
Olrich, E. L., Procurement Division, United States Treasury Department.....	54
Strauss, Capt. Lewis L., United States Navy Department.....	43
Supporting statements and supplementary material:	
A bill to provide for the disposal of surplus Government property and plants, and for other purposes.....	2
Letter of June 1, 1944, from Hon. Francis Biddle, Attorney General, to Hon. W. L. Clayton, Administrator, Surplus War Prop- erty Administration.....	63
Letter of June 1, 1944, from Hon. Marvin Jones, War Food Admin- istrator, to Hon. W. L. Clayton.....	66
Letter of June 13, 1944, from Hon. J. W. Robinson, Acting Chairman, Select Committee on Small Business of the House of Representatives, to Hon. William M. Colmer, Chairman, House Special Committee on Post-War Economic Policy and Planning, re surplus property legislation.....	68
A bill to amend the Reconstruction Finance Corporation Act by adding a new title thereto relating to the sale or other disposition of surplus property of the United States.....	70
Fifth Interim Report of the House Small Business Committee—the Surplus Property Problem from the Viewpoint of Small Business....	74



# POST-WAR ECONOMIC POLICY AND PLANNING

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FRIDAY, JUNE 16, 1944

CONGRESS OF THE UNITED STATES,  
COMMITTEES ON POST-WAR ECONOMIC  
POLICY AND PLANNING,  
*Washington, D. C.*

EXECUTIVE SESSION

The committees met, pursuant to call, at 10:30 a. m., in room 318, Senate Office Building, Senator Walter F. George (chairman of the Special Committee on Post-War Economic Policy and Planning of the United States Senate), presiding.

Present: Senators George, Johnson (Colorado), Vandenberg, Hawkes, Lucas, Revercomb, Murray, Pepper, Austin, Hill, and Kilgore; Representatives Colmer (chairman of the Special Committee on Post-War Economic Policy and Planning of the House of Representatives), O'Brien, Fish, Reece, Dewey, Manasco, Worley, Wolverton, Hope, Walter, and Cooper.

Also present: Mr. Scott Russell, counsel for the Senate Special Committee on Post-War Economic Policy and Planning; Mr. Marion B. Folsom, staff director, House Special Committee on Post-War Economic Policy and Planning.

The CHAIRMAN. The committee will come to order, please.

All members of the House, on any committee, come right around.

Mr. Clayton, before you begin, I will make this very brief statement.

This is a joint meeting of the House and Senate Special Committees on Post-War Economic Policy and Planning. Chairman Colmer, of the House Committee, invited Representative May, chairman of the House Military Affairs Committee; Representative Vinson, chairman of the House Naval Affairs Committee; Representative Spence, chairman of the House Banking and Currency Committee; and Representative Manasco, chairman of the House Committee on Expenditures in the Executive Departments, to attend the meeting.

On behalf of the Senate committee, invitations were extended to Senator Hill, chairman of the Senate Committee on Expenditures in the Executive Departments, and Senators Murray, Revercomb, and Truman, composing a subcommittee of the Senate Military Affairs Committee.

All of these committees have been considering surplus property legislation, and Mr. Colmer and the chairman of the Senate Post-War Committee thought it would be helpful for them to hear your statement this morning, Mr. Clayton.

I am also hoping to have here the entire Military Affairs Committee of the Senate, which has several surplus property bills before it.

There was an unfortunate mix-up with reference to the time of the meeting, which becomes particularly unfortunate because of the early hour at which the House is convening today. I regret that the misunderstanding as to the time occurred, in view of the fact that this is the first effort of the House and Senate Post-War Committees to hold a joint hearing. I hope that we may be able to have many such joint hearings in the future.

We have under consideration a bill which has been proposed by Mr. Clayton, and I will ask that it be included in the record at this point.

(The bill proposed by Mr. Clayton, with his suggested amendments, follows:)

[S. —, 78th Cong, 2d sess.]

A BILL To provide for the disposal of surplus Government property and plants, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### OBJECTIVES

SECTION 1. The Congress hereby declares that the objectives of this Act are to facilitate and regulate the orderly disposal of surplus property so as—

- (a) to assure the most effective use of such property for the purposes of war and national defense;
- (b) to facilitate the transition of enterprises from wartime to peacetime production and of individuals from wartime to peacetime employment;
- (c) to promote production, employment of labor, and utilization of the productive capacity, and the natural and agricultural resources of the country;
- (d) to avoid dislocations of the domestic economy and of international economic relations;
- (e) to discourage monopolistic practices, preserve and strengthen the competitive position of small business, and promote fair prices to consumers;
- (f) to effect broad and equitable distribution of surplus property; and
- (g) to realize the highest obtainable return for the Government consistent with the maintenance and encouragement of a healthy competitive economy.

#### DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "Government agency" means any executive department, board, bureau, independent commission, or other agency in the executive branch of the Federal Government, and any corporation wholly owned and controlled by the United States.

(b) The term "owning agency" means Government agency having control of property at or before the time when it is determined to be surplus to the needs and responsibilities of that agency.

(c) The term "disposal agency" means any Government agency designated under this Act to handle disposition of one or more classes of surplus property.

(d) The term "property" means any interest in property, real or personal, owned by the United States or any Government agency, including, but not limited to, plants, facilities, equipment, machinery, accessories, parts, assemblies, products, commodities, materials, and supplies of all kinds, whether new or used, and wherever located.

(e) The term "surplus property" means any property which has been determined to be surplus to the needs and responsibilities of the owning agency in accordance with section 7 of this Act.

(f) The term "contractor inventory" means (1) any property related to a terminated contract of any type with a Government agency or to a subcontract thereunder (except any machinery or equipment subject to a separate contract or contract article specifically governing its use or disposition); and (2) any property acquired under a cost-plus-a-fixed-fee contract and in excess of the amounts



needed to complete performance thereunder; and (3) any property which the Government is obligated to take over under any type of contract as a result of any change in the specifications or plans thereunder.

(g) The term "care and handling" includes repairing, converting, rehabilitating, operating, maintaining, preserving, protecting, insuring, storing, packing, handling, and transporting.

(h) The term "option" means any contractual right to retain or acquire any property at a price and upon terms prescribed or determined by the contract.

(i) The term "person" means any individual, corporation, partnership, firm, association, trust, estate, or other entity.

(j) The term "Administrator" means the Surplus Property Administrator.

#### SURPLUS PROPERTY ADMINISTRATOR

SEC. 3. (a) There is hereby established the Surplus Property Administration which shall be headed by a Surplus Property Administrator. The Administrator shall be appointed by the President by and with the consent of the Senate, shall receive compensation at the rate of \$12,000 per year, and shall serve for a term of two years.

(b) The Administrator may, within the limits of funds which may be made available, employ and fix the compensation of necessary personnel without regard to the provisions of the civil-service laws and the Classification Act of 1923 and make expenditures for supplies, facilities, and services necessary for the performance of his functions under this Act. The Administrator shall perform the duties imposed upon him through the personnel and facilities of the established Government agencies so far as consistent with his duty to insure uniform and efficient administration of the provisions of this Act.

(c) The Administrator shall have general supervision and direction over (1) the care and handling and disposition of surplus property and (2) the transfer of surplus property between Government agencies.

#### SURPLUS PROPERTY BOARD

SEC. 4. There is hereby created a Surplus Property Advisory Board with which the Administrator shall advise and consult. The Board shall be composed of the Administrator, who shall act as its Chairman, and of the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Attorney General, the Secretary of Commerce, the Secretary of the Interior, the Chairman of the Board of Directors of Smaller War Plants Corporation, the Chairman of the United States Maritime Commission, the Chairman of the War Production Board, the Director of the Bureau of the Budget, the Administrator of the War Food Administration, the Administrator of the Federal Works Agency, the Chairman of the Civil Aeronautics Board, and the Administrator of the Foreign Economic Administration, or any alternate or representative designated by any of them.

#### SURVEILLANCE BY CONGRESS

SEC. 5. (a) To assist the Congress in appraising the administration of this Act and in developing such amendments or related legislation as may be necessary to accomplish the objectives of the Act, the appropriate committees of the Senate and the House of Representatives shall study the reports and information submitted to the Congress under this Act and shall otherwise maintain continuous surveillance of the operations of the Government agencies under the Act.

(b) Within three months after the enactment of this Act, and thereafter in January, April, July, and October of each year, the Administrator shall submit to the Senate and House of Representatives a progress report on the exercise of his authority and discretion under this Act, the status of surplus property disposition, and such other pertinent information on the administration of the Act as will enable the Congress to evaluate its administration and the need for amendments and related legislation.

(c) The Administrator shall submit to the Senate and House of Representatives copies of the regulations prescribed by him from time to time under this Act within thirty days after the effective date of such regulations.

## PLANNING

SEC. 6. (a) The Administrator shall formulate as rapidly as possible detailed plans—

(1) for the care and handling, and disposition of surplus property in accordance with this Act;

(2) for converting to civilian production by private industry as rapidly as war needs and conditions permit any Government-owned plants which are not needed for national defense and are capable of use for civilian production; and

(3) for facilitating the most economical use and disposition of Government-owned plants which are not needed for national defense but are not capable of use for civilian production.

(b) The Administrator shall make such studies as he deems necessary for the formulation of such plans or shall cause such studies to be made by other Government agencies.

## DECLARATION OF SURPLUS PROPERTY

SEC. 7. (a) Each owning agency shall have the duty and responsibility continuously to survey the property in its control and to determine which of such property is surplus to its needs and responsibilities.

(b) Each owning agency shall promptly report to the appropriate disposal agency all surplus property in its control which the owning agency does not dispose of under section 8.

## DISPOSITION BY OWNING AGENCY

SEC. 8. (a) Any owning agency may dispose of any property for the purpose of war production or authorize any contractor with such agency or subcontractor thereunder to retain or dispose of any contractor inventories for the purpose of war production, subject only to regulations of the Administrator with respect to price policies.

(b) Subject to subsection (c) of this section, any owning agency may dispose of—

(1) any property which is damaged or worn beyond economical repair;

(2) any waste, salvage, scrap, or other similar items;

(3) any products of industrial, research, agricultural, or livestock operations, or of any public works construction or maintenance project, carried on by such agency;

(4) any contractor inventory in its control; and

(5) any other class or type of surplus property designated by the Administrator.

(c) Whenever he deems such action necessary to effectuate the objectives and policies of this Act, the Administrator, by regulations, shall restrict the authority of any owning agency to dispose of any class of surplus property under subsection (b) of this section.

## DISPOSAL AGENCIES

SEC. 9. (a) The Administrator, by regulations, shall designate one or more Government agencies to act as disposal agencies under this Act and shall prescribe the class or classes of surplus property to be handled by each such agency: *Provided, however,* That the United States Maritime Commission shall be the sole disposal agency for merchant vessels or vessels capable of conversion to merchant use, and that such vessels shall be disposed of in accordance with the provisions of the Merchant Marine Act, 1936, as amended, and other laws authorizing the sale of such vessels.

(b) When any surplus property is reported to it under subsection (b) of section 7, the disposal agency shall have responsibility and authority for the disposition of such property, and for the care and handling of such property pending its disposition. Where any disposal agency is not prepared, at the time of its designation under this Act, to undertake the care and handling of such surplus property, the Administrator may postpone the responsibility of the agency to assume its duty for care and handling for such period as he deems necessary to permit its preparation therefor, but the owning agency shall be reimbursed, pursuant to subsection (b) of section 17, for its expenses for the care and handling of such surplus property during such period.

(c) The Administrator, by regulations, shall prescribe policies, standards, methods, and procedures to govern the exercise by any disposal agency of its authority under subsection (b) of this section.

## TRANSFERS BETWEEN AGENCIES

SEC. 10. (a) The Administrator shall establish procedures to facilitate the transfer to each Government agency, for the performance of its functions, of surplus property of other Government agencies. Each Government agency shall make the fullest practicable use of surplus property in order to avoid unnecessary commercial purchases.

(b) The disposal agency responsible for any such property shall transfer it to the agency acquiring it at the fair value of the property as fixed by the disposal agency, under regulations of the Administrator, unless transfer without reimbursement or transfer of funds is otherwise authorized by law.

## METHODS OF DISPOSITION

SEC. 11. (a) Wherever any Government agency is authorized to dispose of property under this Act, then, notwithstanding the provisions of any other law but subject to the provisions of this Act, the agency may dispose of such property by sale, exchange, lease, transfer, or other disposition, for cash, credit, other property, or otherwise, with or without warranty, and upon such other terms and conditions, as the agency deems proper.

(b) Whenever the Government agency authorized to dispose of any property finds that it has no commercial value or that the cost of its handling and sale would exceed the estimated proceeds, the agency may donate such property to any agency or institution supported by the Federal Government or any State or local government, or to any nonprofit educational or charitable organization, or, if that is not feasible, shall destroy or otherwise dispose of such property.

(c) The Administrator, by regulations, shall prescribe such policies governing prices and other terms and conditions of dispositions under the authority of subsections (a) and (b) of this section, as he deems necessary to effectuate the objectives and policies of this Act.

(d) A deed, bill of sale, lease, or other instrument executed by or on behalf of any Government agency purporting to transfer title or any other interest in property under this Act shall be conclusive evidence of compliance with the provisions of this Act insofar as title or other interest of any bona fide purchasers for value is concerned.

## POLICIES GOVERNING DISPOSITION

SEC. 12. In formulating regulations to govern the care and handling and disposition of surplus property under this Act, the Administrator shall be guided by the objectives stated in section 1 of this Act, and shall give effect to the following policies to the extent feasible and in the public interest:

(a) To facilitate transfers of surplus property of one Government agency to other Government agencies for their use.

(b) To afford public, governmental, educational, charitable, and eleemosynary institutions and cooperative organizations an opportunity to fulfill their legitimate needs.

(c) To afford returning veterans an opportunity to establish themselves as proprietors of agricultural and business enterprises.

(d) To afford smaller business concerns and agricultural enterprises generally an opportunity to acquire surplus property on equal terms with larger competitors, and to discourage sales to speculators, by assuring reasonable notice of such dispositions, by disposing of such property in appropriate quantities, by using commercial channels of distribution to the maximum extent consistent with efficient and economic distribution, by collaborating with Smaller War Plants Corporation, or by other appropriate means.

(e) To afford former owners of surplus real property acquired by the Government by the exercise of its war powers an opportunity to reacquire such property.

(f) To encourage mutually beneficial trade relations with foreign nations and to develop foreign markets.

(g) To dispose of surplus property as promptly as feasible without fostering monopoly or restraint of trade or unduly disturbing the economy or encouraging hoarding, and to facilitate prompt redistribution of such property to consumers.

(h) To realize the highest obtainable return for the Government from such surplus property, consistent with the policies and objectives set forth in this Act.

## DISPOSITION OF PLANTS

SEC. 13. Nothing in this Act shall impair, amend, or modify the antitrust laws or limit or prevent their application to persons who buy or otherwise acquire

property under the provisions of this Act. Upon the request of the Attorney General the Administrator or any other Government agency shall furnish or cause to be furnished to the Attorney General such information as the Administrator or any such agency may possess which the Attorney General determines to be pertinent to the application of the antitrust laws to the disposition of surplus property under the provisions of this Act. As used in this section, the term "antitrust laws" includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of Aug. 27, 1894 (ch. 349, sec. 73, 74, 28 Stat. 570), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; and the Federal Trade Commission Act.

Sec. 14. (a) No Government agency shall dispose of any surplus Government-owned plant for the production of synthetic rubber, or aluminum, which originally cost the Government \$5,000,000 or more, except in accordance with this section or pursuant to an option therefor.

(b) The Administrator may authorize any disposal agency to lease any such surplus plant for a term of not more than five years.

(c) The Administrator shall prepare and submit to Congress a report as to each class of such property:

(1) Describing the number, cost, and location of such surplus plants and setting forth other descriptive information relative to the use and potential use thereof;

(2) Outlining the economic problems that may be created by the disposition thereof;

(3) Setting forth a plan or program for the care and handling, disposition, and use thereof consistent with the policies and objectives of this Act; and

(4) Describing any steps already taken with respect to the care and handling, disposition, and use of the property, including any contracts relating thereto.

The Administrator shall request Government agencies to submit information and suggestions for use in the preparation of such reports and shall encourage States, political subdivisions thereof, and private persons to submit such information and suggestions, and he shall submit to the Congress together with each such report, copies or summaries of such information and suggestions. After 6 months from the submission of a report hereunder, unless the Congress provides otherwise by law, the Administrator may authorize the appropriate disposal agencies to dispose of such property in accordance with the plan or program proposed in the report to Congress.

(d) The Administrator may authorize any disposal agency to dispose of any materials or equipment related to any surplus plant covered by subsection (a) of this section, if such materials and equipment are not necessary for the operation of the plant in the manner for which it is designed.

(e) This section shall not apply to any Government-owned equipment, structure, or other property operated as an integral part of a privately owned plant and not capable of economic operation as a separate and independent unit.

#### REGULATIONS

Sec. 15. The Administrator shall prescribe regulations to effectuate the provisions of this Act. Each Government agency shall carry out such regulations of the Administrator expeditiously, and shall issue such regulations with respect to its operations and procedures as may be necessary for that purpose. Any Government agency may issue such further regulations not inconsistent with the regulations of the Administrator as it deems necessary and desirable to carry out the provisions of this Act. The regulations prescribed under this Act shall be published in the Federal Register.

#### GENERAL PROVISIONS

Sec. 16. (a) Each Government agency shall submit to the Administrator (1) such information and reports with respect to surplus property in its control, in such form and at such times as the Administrator may direct; and (2) information and reports with respect to other property in its control, to such extent, and in such form as the agency deems consistent with national security.

(b) Any Government agency may execute such documents for the transfer of title or other interest in property or take such other action as it deems necessary or proper to transfer or dispose of surplus property or otherwise to carry out the provisions of this Act, and shall do so to the extent required by the regulations of the Administrator.

(c) Where any property is disposed of in accordance with this Act and any regulations prescribed under this Act, no officer or employee of the Government shall (1) be liable with respect to such disposition except for his own fraud or (2) be accountable for the collection of any purchase price which is determined to be uncollectible by the agency responsible therefor.

(d) Any interested Government agency may take such action for the care and handling of property subject to disposition under this Act, and for completion of any semifabricated property, as it deems necessary or desirable to effectuate the objectives and policies of this Act.

(e) Each disposal agency shall maintain in each of its disposal offices such records of its inventories of surplus property and of each disposal transaction negotiated by that office as the Administrator may prescribe. The information in such records shall be available at all reasonable times for public inspection.

(f) Nothing in this Act shall be deemed to impair or modify any contract or any term or provision of any contract without the consent of the contractor, if the contract or the term or provision thereof is otherwise valid.

#### DISPOSITION OF PROCEEDS

SEC. 17. (a) All proceeds from any transfer or disposition of property under this Act shall be deposited and covered into the Treasury as miscellaneous receipts, except as provided in subsections (b), (c), (d), and (e) of this section.

(b) From the proceeds of such transfers or dispositions, the agency may deduct all expenses incurred for the care and handling, completion, and transfers or dispositions of such property under this Act, and may reimburse the fund or appropriation bearing such expenses, or the corresponding fund or appropriation currently available at the time of reimbursement.

(c) Where the property transferred or disposed of was acquired by the use of funds either not appropriated from the general fund of the Treasury or appropriated from the general fund of the Treasury but by law reimbursable from assessment, tax, or other revenue or receipts, then upon the request of the interested agency the proceeds of the disposition or transfer remaining after any deductions under subsection (b) of this section shall be credited to the reimbursable fund or appropriation or paid to the owning agency.

(d) To the extent authorized by the Administrator, any Government agency disposing of property under this Act (1) may deposit, in a special account with the Treasurer of the United States, such amount of the proceeds of such dispositions as it deems necessary to permit appropriate refunds to purchasers when any disposition is rescinded or does not become final, or payments for breach of any warranty, and (2) may withdraw therefrom amounts so to be refunded or paid, without regard to the origin of the funds withdrawn.

(e) Where a contract or subcontract authorizes the proceeds of any sale of property in the custody of the contractor or subcontractor to be credited to the price or cost of the work covered by such contract or subcontract, the proceeds of any such sale shall be credited in accordance with the contract or subcontract and shall not be subject to subsection (a) of this section.

#### USE OF APPROPRIATED FUNDS

SEC. 18. (a) Any Government agency is authorized to use for the disposition of property under this Act and for its completion, care, and handling, pending such disposition, any funds heretofore or hereafter appropriated, allocated, or available to it for such purposes or for the purpose of production or procurement of such property.

(b) Any Government agency is authorized to use in payment for the transfer to it of any surplus property under this Act any funds heretofore or hereafter appropriated, allocated, or available to it for the acquisition of property of the same kind.

(c) There are authorized to be appropriated such sums as may be necessary or appropriate for administering the provisions of this Act.

#### DELEGATION OF AUTHORITY

SEC. 19. (a) The Administrator may delegate any authority and discretion conferred upon him by this Act to any Deputy Administrator, and may delegate such authority and discretion, upon such terms and conditions as he may prescribe, to the head of any Government agency to the extent necessary to the handling and solution of problems peculiar to that agency.

(b) The head of any Government agency may delegate, and authorize successive redelegations of, any authority and discretion conferred upon him or his agency by or pursuant to this Act to any officer, agent, or employee of such agency or, with the approval of the Administrator, to any other Government agency.

(c) Any two or more Government agencies may exercise jointly any authority and discretion conferred upon each of them individually by or pursuant to this Act.

#### APPLICABILITY

SEC. 20. All policies and procedures relating to surplus property prescribed by the Surplus War Property Administration, created by Executive Order Numbered 9425, dated February 19, 1944, or any other Government agency, in effect upon the effective date of this Act, and not inconsistent with this Act, shall remain in full force and effect unless and until superseded by regulations of the Administrator or of the agency in accordance with this Act.

SEC. 21. (a) Nothing in this Act shall limit or affect the authority of commanders in active theaters of military operations to dispose of property in their control.

(b) The provisions of this Act shall be applicable to dispositions of property within the United States and elsewhere, but the Administrator may exempt from some or all of the provisions hereof, dispositions of property located outside of the continental United States or in Alaska, whenever he deems that such provisions would obstruct the efficient and economic disposition of such property in accordance with the objectives of this Act.

SEC. 22. (a) The authority conferred by this Act is in addition to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent herewith. This Act shall not impair or affect any authority for the disposition of property under any other law, except that the Administrator may prescribe regulations to govern any disposition of surplus property under any such authority to the same extent as if the disposition were made under this Act, whenever he deems such action necessary to effectuate the objectives and policies of this Act.

(b) Nothing in this Act shall impair or affect the provisions of the Emergency Price Control Act of 1942, as amended; or the Act of October 2, 1942 (ch. 578, 56 Stat. 765), as amended; or of section 301 of the Second War Powers Act, 1942; or of the Act of March 11, 1941 (55 Stat. 31), as amended; or Acts supplemental thereto, or of any law regulating the exportation of property from the United States.

#### EFFECTIVE DATE; EXPIRATION

SEC. 23. This Act shall become effective from the date of its enactment. Unless extended by law, this Act shall expire at the end of three years following the date of the cessation of hostilities in the present war, as proclaimed by the President or by concurrent resolution of the two Houses of Congress.

#### SEPARABILITY OF PROVISIONS

SEC. 24. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

#### SHORT TITLE

SEC. 25. This Act may be cited as the "Surplus Property Act of 1944."

The CHAIRMAN. Now, Mr. Clayton, we will be very glad to have you proceed in your own way with respect to the disposal of surplus Government property and plants.

### STATEMENT OF W. L. CLAYTON, SURPLUS WAR PROPERTY ADMINISTRATOR

Mr. CLAYTON. Mr. Chairman and gentlemen, on May 5, 1944, appearing at the request of Senator Murray, I testified before the War Contracts Subcommittee of the Senate Military Affairs Committee on

the subject of property disposal legislation. I then stated that I was not prepared to make recommendations as to legislation and that I wished some experience with actual disposal problems before attempting it. I did, however, indicate certain fields in which I thought that congressional action would be desirable in due course.

In the 6 weeks since that testimony a number of things have occurred having a bearing on the subject. Our first regulation has become effective, so that the channeling into the disposal agencies of surplus property of the War and Navy Departments and of the Maritime Commission has begun on a permanent basis. We have had 6 weeks' more experience with some of the practical problems of disposal, and although this is still an inadequate background for predicting the precise nature and extent of the problems to come, it has at least given us concrete examples of the variety of situations which will arise in disposing of surpluses.

Following my testimony on May 5, 1944, referred to above, Senator Murray expressed a desire, in line with his statements on the Senate floor in connection with the contract termination bill, to obtain recommendations from a number of the executive agencies as to the matters that should be covered by a Surplus Property Act, with a view to prompt congressional action.

After consultation with representatives of the agencies and congressional committees particularly interested, it was decided that Senator Murray's request could best be complied with by preparing a draft bill. I accordingly convened a committee on legislation on which 11 agencies were represented. This committee worked under great pressure and met frequently, twice with representatives of the Murray, George, and Colmer committees.

The result of its deliberations, which was forwarded to several committees of Congress on June 2, 1944, just 18 days after our committee had its first meeting, is the proposed bill which you have before you today in the form of a confidential committee print of the George committee, dated June 8.

I am prepared to go through the bill section by section, if you so desire, giving you in detail the various considerations and arguments which led to the inclusion of each in its present form.

Before going into such detail, however, I think it essential to discuss a few of the fundamentals, and I think there really are only a few, upon which any sound legislation in this field must be based and in the light of which each individual provision of any bill must be carefully scrutinized. I think I can fairly say that there is very little difference of opinion as to these fundamentals among the agencies represented on our committee on legislation or on our policy board, though they are represented here and I assume will speak for themselves.

If we can agree upon these fundamentals and carefully appraise all specific provisions in relation to them so that considerations of lesser importance are not allowed to override them, I have no doubt that we can arrive at sound and workable legislation. Otherwise the result will literally make the job of surplus disposal impossible of satisfactory achievement.

I am a believer in the theory that Congress should control and clearly define the duties of the Government officers charged with executing its wishes, and should not delegate its legislative respon-

sibility by conferring uncontrolled administrative power. The duty which Congress in this instance wishes the Administrator to carry out is to dispose of war surpluses in the manner most beneficial to the domestic economy. This means that, to the extent consistent with that objective, he must sell them so as to obtain the highest possible return for the Government.

The problem is to write a statute which will enable an Administrator to accomplish this result and which will insure that in doing it he carries out the wishes of Congress. When the fundamentals, which are undeniable facts, are squarely faced, I think it will be manifest that, while Congress can and should supervise the job, safeguard it and lay down clearly defined policies, it must still permit great administrative discretion and flexibility.

The first fundamental is the sheer physical size of the problem. Dollar figures do not, I think, convey the idea in a concrete way, and in any event we can now have no accurate idea of the number of dollars which may ultimately be involved. But viewing it from the standpoint of an Administrator charged with the responsibility of coordinating the job and seeing that it operates as a consistent whole, the following facts give the size of the problem some meaning:

As of the present time, in preparing to do the job, each disposal agency has to organize its regional offices so as to be able to receive reports of surplus, record them for inventory purposes, catalogue them, make the full information available to prospective buyers, determine prices, terms and methods of sale, find the best market, test it thoroughly, and carry out the actual mechanics of sale.

This is being done by Reconstruction Finance Corporation in 22 offices, by Treasury Procurement in 11 with more to be organized, by War Food Administration in 5 regional offices and many smaller offices in every State, and by the Foreign Economic Administration in offices all over the world. The Maritime Commission for the present is handling disposals centrally but will probably decentralize as volume increases.

These agencies may require additional offices and still other agencies may be employed for different commodities and in different places.

Contracts are being terminated in large numbers monthly. Every such termination results in the termination of a number of sub-contracts, sometimes a very large number. Every such termination produces property in which the Government has an interest, with the attendant problems of storage, packing, handling, transportation, and disposal. Each of those problems must be administered and solved by some representative of the Government, initially by a representative of the procuring agency, and, later, as to property undisposed of during the initial period, by a representative or representatives of one or more disposal agencies.

Every general procedural or substantive requirement or limitation on property disposal which is made effective by Congress will affect every sale made by every office and every termination officer. Regulations putting these into effect will be disseminated by the central directing agency, carried out by hundreds of people in hundreds of places, and the results reported back centrally in sufficient detail to enable the central agency to know that the statutory mandate is being carried out.



If Congress says that sales shall follow specific prescribed procedures, that surpluses shall be frozen for specific periods of time, that specified classes of people or agencies shall have notice, or be consulted, or be given an opportunity to buy, before property can be sold, the impact of such provisions on the entire administrative organization will be heavy. We should be sure that the virtue of each particular requirement is not overbalanced by the extent to which it might clog this vast machinery.

For example, provisions such as have been proposed requiring that complete inventories of available surpluses be forwarded the Budget, Smaller War Plants Corporation, and Foreign Economic Administration, with each having a successive priority, before the goods could be offered to the public, would be administratively impossible.

The second fundamental is the variety of types of property which will have to be disposed of. There will be surpluses, in varying quantities, of substantially every type of property which has ever been created, grown, mined, or manufactured.

This is a fact which everyone readily admits, and yet it seems very difficult to keep it constantly in mind when considering over-all policies and provisions. Nothing is easier, or more dangerous, than unconsciously to think of the desirability of a particular policy or provision in the light of its applicability to, let us say, the sale of a thousand motorears, or pairs of shoes, or blankets, or cans of beans, and to jump from there to the conclusion that such a policy or provision should be made applicable generally.

On innumerable occasions, particularly in discussions with persons who are specialists in a particular field, I have found that though the language they used in talking about property disposal was general, they were in fact thinking about sales of machine tools, or valves, or paint, or airplanes.

This fundamental permits of only two approaches to the legislative problem. One is to legislate specifically with respect to specified classes of property which require special treatment. There are certainly some types of property where this is highly desirable, and there may be many. For instance, Congress acted with great care and completeness in peacetime to prescribe the manner in which merchant vessels should be acquired and disposed of in the development of the merchant marine, and has for some time been considering a bill sponsored by the Maritime Commission which declares very specific policies as to the disposition of the huge post-war surplus of merchant vessels. There may be special problems relating to aircraft, certain industrial plants, foodstuffs, and perhaps others which Congress will wish to consider individually and to handle by specific legislation.

No general legislation would or should preclude such congressional action. But I think it is manifest that an attempt to provide in a single bill specific treatment for each separate class of property would be a task too monumental and time-consuming to merit serious attention at this time.

The only other possible approach is to put in a general statute either provisions which permit of administrative flexibility so that different types of property can receive the different treatments which they require or, in the case of mandatory provisions, only those which, on mature and sober consideration, we are all really certain will be beneficial in all kinds of disposals of all types of property. There are few

such provisions in the proposed bill because the committee, which considered many, including those found in various pending bills, found few which would meet the tests of general applicability and administrative feasibility.

If the facts are to be faced, proposed mandatory provisions on how to sell property must be subjected to a rigorous questioning, as for example: "Is this provision equally desirable for selling sleeping bags in Alaska, unwieldy numbers of surplus transport aircraft, machine tools in a Navy machine shop at a Pacific advance base, tools, dies, jigs, and fixtures in an aircraft plant, work in process in a textile mill, a housing project in Pennsylvania, an Army camp in Mississippi, and 10,000,000 pounds of foreign wool?" If so directed, the Administrator would have to apply such provisions to all such sales and many more. If not so directed, the statute must either say when the provision is or is not applicable or must permit the Administrator to decide.

The third fundamental is that there is only one interested group to which everyone belongs, and that is the taxpayers' group. Provided the economy is not otherwise adversely affected, that group is primarily interested in seeing that sales of surplus property are made in such a way as to recoup as much as possible of the money already spent. Every dollar that accrues to the benefit of any other group, however large and however meritorious, in the form of price reductions or gifts of property which could be sold at a higher price, is a dollar lost to the largest group of all. Price preferences to any group are just as much gifts of public funds as if they were made in cash.

The making of such gifts is the prerogative of Congress, and there are groups which deserve special consideration. But in almost every case where Congress desires to confer benefits on a particular class of citizens, it can do so much more equitably and satisfactorily by specific separate legislation designed for that purpose than by giving them preferential rights to acquire surplus property.

The last fundamental is perhaps in the nature of a summary; that legislation of this character must be administratively workable, and we are convinced that this can be achieved only by vesting in the Administrator a very large area of discretion, after formulating the principles and policies which must guide his actions.

This by no means connotes an uncontrolled and unchanneled discretion. Congress can and should clearly state its wishes and impose all safeguards which are consistent with the basic purpose of the statute. This, I think, the proposed bill accomplishes.

As we visualize the progress of the surplus disposal program, there is no way in which Congress can insure in advance, by words in a statute, that the job will be well done. However the act is written, Congress will want to follow its administration closely, to be kept constantly advised as to the progress being made and the plans for future action, and in all probability will want to legislate on specific problems from time to time as they arise or are anticipated.

The draft bill which we have prepared not only provides for keeping Congress fully advised, but limits the term of the Administrator to 2 years and terminates the entire statute 3 years after the end of hostilities unless extended by Congress. It is strictly temporary legislation designed to provide the necessary basic mechanism and author-

ity for the disposal of war surpluses. It does not go into the permanent management of Federal property and in no way precludes subsequent specific legislation on that or any other subject.

I feel sure that, whether or not any general legislation is adopted at this time, a period of experience with actual disposal will enable those in charge of surplus disposal to recommend definite directing legislation covering various specific parts of the field. But with the experience we have had to date, we have been unable either to recommend detailed legislation in specific fields or to arrive at mandatory provisions covering the whole field, other than those found in the draft bill, which we felt would be of sound general application or administratively workable. I may add that, with the exception of Smaller War Plants Corporation, which advocated inserting in the statute provisions which we thought should clearly be left to administrative regulation, there was no difference of opinion on this point among the agencies represented on our committee on legislation.

The proposed bill is not perfect. I am nevertheless satisfied that it comes as close as possible to representing the collective views of the agencies which participated in its preparation, and that it is a bill under which the very large task of surplus disposal could be effectively performed in the way that Congress wants it performed.

Now, Mr. Chairman, I will proceed in any way that you wish. If you would like, I can take the bill and go over it with you section by section; or if any other method is desired, I will conform to that.

The CHAIRMAN. We will be very glad to have you take the bill, Mr. Clayton, and discuss its main provisions. Perhaps you would not want to do so in great detail, but just so that we will get the general program which is outlined in the bill.

Senator VANDENBERG. Mr. Chairman, I think it would be helpful, as he goes along, if he would indicate wherein it departs from S. 1730.

The CHAIRMAN. Very well, Senator Vandenberg.

Mr. RUSSELL. There is a memorandum on the desk of each member that points out the differences between this bill and S. 1730 and S. 1893.

The CHAIRMAN. Yes; the memorandum does show all points of divergence from these other bills.

Mr. RUSSELL. Yes; the other bills that are pending in the Senate.

Mr. COOPER. Mr. Chairman, if it would be agreeable, I think it would be very helpful to follow your original suggestion. This is the first time I have ever seen this draft. It is marked "Confidential committee print." So if you could give us the highlights of this bill, I think it would be very helpful to us, because we haven't had a chance to study it.

Mr. REECE. Mr. Chairman, may I make inquiry: This committee print is the same as the mimeographed copy which was given to the members of the special House committee?

Mr. RUSSELL. Exactly.

The CHAIRMAN. All right, Mr. Clayton.

Mr. CLAYTON. The bill is a bill "to provide for the disposal of surplus Government property and plants."

The objectives are stated as being—

(a) to assure the most effective use of such property for the purposes of war and national defense;

(b) to facilitate the transition of enterprises from wartime to peacetime production and of individuals from wartime to peacetime employment;

(c) to promote production, employment of labor, and utilization of the productive capacity, and the natural and agricultural resources of the country;

(d) to avoid dislocations of the domestic economy and of international economic relations;

(e) to discourage monopolistic practices, preserve, and strengthen the competitive position of small business, and promote fair prices to consumers;

(f) to effect broad and equitable distribution of surplus property; and

(g) to realize the highest obtainable return for the Government consistent with the maintenance and encouragement of a healthy competitive economy.

I don't think it is necessary, Mr. Chairman, to read the definitions that are set out in this bill, except that I think I should read the definition of the term "care and handling."

SEC. 2 (g) The term "care and handling" includes repairing, converting, rehabilitating, operating, maintaining, preserving, protecting, storing, packing, handling, and transporting.

We would like to suggest a slight change in that paragraph, by inserting the word "insuring" after "protecting."

The bill provides for the establishment of the Surplus Property Administration to be headed by a Surplus Property Administrator who will draw compensation of \$12,000 per year and shall serve for 2 years.

The bill provides, in section 4, for the creation of a Surplus Property Advisory Board—

with which the Administrator shall advise and consult. The Board shall be composed of the Administrator, who shall act as its Chairman, and of the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Attorney General, the Secretary of Commerce, the Secretary of the Interior, the Chairman of the Board of Directors of Smaller War Plants Corporation, the Chairman of the United States Maritime Commission, the Chairman of the War Production Board, the Director of the Bureau of the Budget, the Administrator of the War Food Administration, the Administrator of the Federal Works Agency, the Chairman of the Civil Aeronautics Board, and the Administrator of the Foreign Economic Administration, or any alternate or representative designated by any of them.

MR. WORLEY. The Comptroller General is not included on this Board?

MR. CLAYTON. No, sir.

Section 5 provides—

· Senator REVERCOMB (interposing). May I interrupt? What would be the duties of that Board, Mr. Clayton? Would the Board be simply advisory to the Director?

MR. CLAYTON. Yes, sir; they would advise the Director or the Administrator, and he would consult with them on matters of policy, and the Board would be composed of representatives of the principal agencies with which the Administrator would have to work, the so-called owning agencies, the disposal agencies, and other agencies having interest in surplus property.

Senator REVERCOMB. Is it your thought that the Administrator, when he felt it advisable to do so, would call the Board together and confer with them, simply to be advised and have some enlightenment on some particular subject?

MR. CLAYTON. I think the Board should meet at regular intervals. That is the policy that we pursue now in our operations under Executive order. We have such a Board under Executive order, as you know, and it meets at regular intervals.

Senator REVERCOMB. Would the Board have the power to direct the actions of the Administrator, or would the Administrator act upon

his own initiative, being advised by the Board? What is the extent of the powers of the Board?

Mr. CLAYTON. Under the proposed statute the Board would simply act in a consultative and advisory capacity.

Senator REVERCOMB. Thank you.

Senator LUCAS. There isn't very much question as to what the two words "advise" and "consult" mean, is there?

Mr. CLAYTON. I wouldn't think so, Senator.

Senator REVERCOMB. I simply wanted to know your thought on this proposal.

Mr. CLAYTON. Yes, sir.

Mr. COOPER. You had gotten down to section 5 of the bill, I believe.

Mr. CLAYTON. Yes; surveillance by Congress.

SEC. 5. (a) To assist the Congress in appraising the administration of this Act and in developing such amendments or related legislation as may be necessary to accomplish the objectives of the Act, the appropriate committees of the Senate and the House of Representatives shall study the reports and information submitted to the Congress under this Act and shall otherwise maintain continuous surveillance of the operations of the Government agencies under the Act.

Section 5 (b) is as follows—

Mr. REECE (interposing). Mr. Chairman, may I interrupt?

The CHAIRMAN. Mr. Reece.

Mr. REECE. What is the purpose of subsection (a) of section 5, or rather what is the necessity for that?

Mr. CLAYTON. We feel that the Congress has such a great interest in the administration of an act of this kind, that regular reports should be made by the Administrator to Congress and that he should be subject to being called before the committees at different times to discuss and explain his acts.

The section or subsection in question is taken from S. 1718. I should explain that the drafting committee which prepared this bill had access, of course, to all the other bills which had been introduced and studied them very carefully, and a good many of the provisions of this bill are lifted out of some of the other bills which have been presented to the Congress.

Mr. REECE. I see no harm in it, but it would appear somewhat superfluous to require Congress to study these reports. It is a thing that is expected of Congress.

Mr. CLAYTON. We only inserted it because we thought that Congress would wish it. If not, we have no objection to its deletion.

Section 5 (b) provides:

In January, April, July, and October of each year the Administrator shall submit to the Senate and House of Representatives a quarterly progress report on the exercise of his authority and discretion under this Act, the status of surplus property disposition, and such other pertinent information on the administration of the Act as will enable the Congress to evaluate its administration and the need for amendments and related legislation.

We would like to suggest a change in that paragraph, so that it will read:

Within three months after the enactment of this Act, and thereafter in January, April, July, and October—

and so forth, and delete the word "quarterly" in line 16.

The reason for that is obvious, that if the act should be passed, say in December, it would necessitate a report in January, which would not give the Administrator time to make an intelligent report, and we think it ought to read that the first report is to be made 3 months after the enactment of the Act.

Senator VANDENBERG. Let's contemplate its passage in June, instead of December. [Laughter.]

Mr. CLAYTON. We understood that the idea of a joint committee of Congress to receive and consider these reports would be a part of the over-all legislation, so we left it out here, but we have no objection to its inclusion. We think, in fact, that it is an excellent idea.

Now, section 5 (c) :

The Administrator shall submit to the Senate and House of Representatives copies of the regulations prescribed by him from time to time under this Act within thirty days after the effective date of such regulations.

Next we come to planning.

SEC. 6. (a) The Administrator shall formulate as rapidly as possible detailed plans—

(1) for the care and handling, and disposition of surplus property in accordance with this Act;

(2) for converting to civilian production by private industry as rapidly as war needs and conditions permit any Government-owned plants which are not needed for national defense and are capable of use for civilian production; and

(3) for facilitating the most economical use and disposition of Government-owned plants which are not needed for national defense but are not capable of use for civilian production.

Section 7 provides for the Declaration of Surplus Property :

SEC. 7. (a) Each owning agency shall have the duty and responsibility continuously to survey the property in its control and to determine which of such property is surplus to its needs and responsibilities.

(b) Each owning agency shall promptly report to the appropriate disposal agency all surplus property in its control which the owning agency does not dispose of under section 8.

Section 8 provides for the disposition by the owning agency, in certain circumstances, of property.

Senator LUCAS. Mr. Chairman, before the witness starts in on section 8, I should like to have him return to page 7 and elaborate for me paragraph 3 under section 6.

Mr. CLAYTON (reading) :

The Administrator shall formulate as rapidly as possible detailed plans \* \* \* (3) for facilitating the most economical use and disposition of Government-owned plants which are not needed for national defense but are not capable of use for civilian production.

Those plants in that category might be used as storage plants, warehouses, or for some other purpose.

Senator LUCAS. Those plants would be retained by the Government?

Mr. CLAYTON. Not necessarily; they could be sold to private people. They might be used for schools or hospitals, or something of that kind.

Senator HAWKES. Might I ask this question, Mr. Chairman?

The CHAIRMAN. Senator Hawkes.

Senator HAWKES. Have you anything in this bill further on which gives the Administrator the right to determine that the property is surplus property, even though the owning agency doesn't decide that it is?

Mr. CLAYTON. No, sir, we have not. That is a subject which has been discussed a good deal. The bulk of this property, as you well know, of course, is in the custody or control of the armed services, the War Department and the Navy Department, and certainly while the war is on I think perhaps everyone would agree that they are the proper judges as to whether that property is needed, how much of it may be needed with which to fight the war, and so forth.

Senator HAWKES. I don't think there is any question about it while the war is on, but I was thinking of when the war ends, and I was wondering if we couldn't wrap up in some way the power to determine that in this Board, with you; that if a majority of the Board which sits with you determined that a thing was surplus, you might handle it in some such way as that.

Mr. CLAYTON. You mean after the war?

Senator HAWKES. Yes; I mean after the war; that is what I have in mind.

Mr. CLAYTON. As we have said in the prepared statement, this is temporary legislation and we have felt that on questions of that kind, which are more or less controversial, we should, for this temporary bill, avoid them if possible. That, of course, could always be covered by a bill later on, and I am sure that there will be numerous things that are not dealt with in this bill which Congress will want to legislate on.

That is a subject that I expect both the Army and the Navy may have a good deal to say about when they appear before you.

Senator HAWKES. Well, thank you very much, Mr. Clayton; that is all I wanted.

Mr. WOLVERTON. Mr. Clayton, does the bill provide in any way for the fixing of priorities in the allocation of surplus commodities?

Mr. CLAYTON. You mean priorities in respect of who would have the right to obtain them first, or who would have the prior right to obtain the property?

Mr. WOLVERTON. I have in mind that this section seems to give the owning agency the right to dispose of property, and also makes provision that the contractor or subcontractor may retain or dispose of inventories that they have. Having in mind that there will probably be a shortage in those surpluses, going out to industries that probably do not have any surplus of any kind, and yet it would be a necessary commodity in the carrying on of their business—who would determine those priorities which are handled at the present time by the W. P. B.?

Mr. CLAYTON. During the war those priorities will be determined by the W. P. B.

Mr. WOLVERTON. I realize that. Now after the war?

Mr. CLAYTON. After the war presumably there will be no shortages except perhaps in consumer goods, certain types of consumer goods. If there should be, I imagine that the W. P. B. powers would perhaps extend over for some period after the war is over, I don't know that. If not, then some machinery would have to be set up for determination of priorities.

Mr. WOLVERTON. The testimony of Mr. Nelson before our committee in the House would indicate that they won't have that authority after the war.

Mr. CLAYTON. After the war or after the emergency?

Mr. WOLVERTON. Well, I take the two to be more or less synonymous. That is the thought that I have in mind, at least.

Mr. CLAYTON. I don't know, I had an idea that the war powers might extend for some period after the war, some short period, perhaps, after the war.

Mr. WOLVERTON. This would seem to me to give a distinct advantage to the company that might happen to have a large surplus of material on hand, and would preclude the smaller corporation that doesn't have any on hand from carrying out its peacetime activities; and that therefore there may come a time, especially in the early part, after the cessation of hostilities, when there would have to be some priorities.

Mr. CLAYTON. Of course this section (a) only deals with the right of disposal of contractor inventories for war production.

Mr. WOLVERTON. I understand.

Mr. CLAYTON. So that at the end of the war section 8 would no longer apply, section 8 (a). And while the war is on, the priorities are fixed by W. P. B.

Mr. WORLEY. Mr. Chairman, may I ask a question?

The CHAIRMAN. Mr. Worley.

Mr. WORLEY. Getting back to the question of the advisory board, you know that the Comptroller General is supposed to be the watchdog of the Treasury, for Congress. Was any thought given to including the Comptroller General on the Advisory Board?

Mr. CLAYTON. I don't believe so.

Mr. WORLEY. No thought was given to that?

Mr. CLAYTON. I don't recall that it was mentioned. The Comptroller General is not included on the Board named in the Executive order under which we are functioning today, and we have taken almost exactly the agencies named in that order. We have added just one.

Mr. WORLEY. Do you see any reason why he should not be included?

Mr. CLAYTON. The only objection I see to putting as many Government agencies on the Board as feel an interest in it and want to go on, is the fact that the bigger you make the Board the more difficult it becomes to transact business and to get along effectively. The more people you have sitting around a big table, the more difficult it is to proceed.

Mr. WORLEY. That is true.

Mr. FISH. Mr. Chairman, may I ask a question?

The CHAIRMAN. Mr. Fish.

Mr. FISH. Mr. Clayton, I want to congratulate you and commend you. This bill, as far as I have read it, is a sound proposition. My only criticism so far is that you may have too many on that Board, not too few, and it may be unwieldy.

Mr. Clayton, there is a roll call in the House and I may have to leave, so I would like to ask you this question. Congress has been very bitterly criticized by the press for its delay in considering this bill as part of the post-war program legislation. Certainly there is no justification for blaming the Congress. We have been ready to consider this bill for months, that is, the subcommittees in the House—I can't speak for the Senate—and the delay certainly cannot be placed upon the Congress.



Could you tell me, or the members of this committee, why it is that the Administration has taken all this time, months, actually, to present this highly constructive piece of legislation?

Mr. CLAYTON. Well, Mr. Fish, your statement that the press has been bitterly blaming the Congress for delay in the consideration of this legislation is a surprise to me. The only criticism that I have seen in respect of legislation of this type has had to do with the contract-termination bill.

If there is any criticism with reference to any delay in presenting a bill of this kind, I think I would have to take the responsibility and not the Congress, because in practically every committee before which I have appeared in the last 3 months I have been urged to submit recommendations as to legislation on surplus property disposal, and I have begged for a little more time because, following out the suggestion in the Baruch report that we should first get some experience in the matter before attempting to tell Congress what it ought to do, or suggesting to Congress what it ought to do, we have just tried to do that.

We were created around the latter part of February by Executive order; we have had a pretty difficult job of getting organized; we have tried to attend to that, we have had a lot of what we call first things that had to be done in reference to fixing policies on surplus disposal.

So that we felt that there was no very great hurry about legislation on this subject.

Mr. FISH. That is the point I want to raise because I can't see how you can possibly get action on this legislation for 2 months. We are about to recess, and we can't do anything on it before the recess. We had hoped in the House to act today on the termination-of-contracts bill, we are considering it now, and we hope to get that through before we adjourn on the 23d, but there will be that delay after that, and it isn't the fault of Congress.

I wish I could agree with you as to the press, because the press, editorially and otherwise, has come out sharply in criticism of what they call the delay of Congress.

Senator VANDENBERG. That might be an argument against the recess.

Mr. FISH. It might be a strong argument against it.

Mr. CLAYTON. I feel, as I have stated on several occasions before Senate and House committees, that prompt passage of the contract termination bill is very important, but I have asked for time in which to submit recommendations for legislation on surplus disposal, and if there is any blame that attaches to anybody, it attaches to me.

Mr. FISH. Well, that is a very fair statement.

Mr. COLMER. May I speak in that connection, Mr. Chairman?

The CHAIRMAN. Mr. Colmer.

Mr. COLMER. I would just like to be recorded as suggesting that you have used exceptionally good judgment in taking your time to make these recommendations, because I think I can see that this is a very complicated subject, and the more experience—actual experience—you have had, the more opportunity you have had to study the problem, the better able you are to make recommendations.

Mr. CLAYTON. Thank you, sir.

I would like to make this explanation about section 8 of the bill which provides for disposition by owning agencies. The first thing to notice about the provisions for sales by owning agencies is that

section 8 (c) requires the Administrator to restrict these sales whenever he deems it necessary to effectuate the objectives and policies of the act.

With this power in mind we have tried to draft a provision which would not make mandatory the declaration as surplus by an owning agency, of property which it is accustomed to sell itself in the ordinary course of business.

If the Administrator finds that such sales interfere in any way with the real surplus program, he can stop them, but he is not compelled by the statute to do so. For instance, it is hard to deny that, *prima facie*, anything which an agency sells, except perhaps directly for war production, must be surplus to its needs and responsibilities, and yet without a section like section 8 (b), we would be driven to such absurd results as the following:

1. The Army could not make contracts to dispose of garbage from its Army camps but would solemnly declare it surplus.

2. T. V. A. would have to declare all its electric power as surplus, and sell it through the R. F. C.

3. Government-owned plants in the regular business of manufacturing and selling fertilizer, or of smelting tin, would have to deal through a disposal agency.

And so on. I think I have given sufficient examples to show the wisdom of this provision.

The Attorney General has suggested—and I think properly so—that in section 8 (b) (5) the word “surplus” should be inserted just ahead of the word “property”, so that that paragraph will read:

(5) any other class or type of surplus property designated by the Administrator.

Section 9 (a) provides:

The Administrator, by regulations, shall designate one or more Government agencies to act as disposal agencies under this Act and shall prescribe the class or classes of surplus property to be handled by each such agency.

We would like to suggest, Mr. Chairman, that the following be added just after the word “agency” in section 9 (a):

provided that merchant vessels or vessels capable of conversion to merchant use, shall be disposed of only by the United States Maritime Commission in accordance with the provisions of the Merchant Marine Act, 1936, as amended, and other laws authorizing the sale of such vessels.

I think that will be obvious, since Congress has already provided the disposal agency for merchant ships.

Section 9 (b) merely provides that if the disposal agency is not prepared immediately to take over the physical care and handling of the property, that the owning agency shall continue in that responsibility until the Administrator shall find that the disposal agency can take it over. It also confers upon the disposal agency the responsibility and authority for the disposition of property reported to it by other agencies.

Senator REVERCOMB. Mr. Chairman.

The CHAIRMAN. Senator Revercomb.

Senator REVERCOMB. Returning to section 8 (a), the only supervision that the Administrator has over any owning agency is with respect to price policies in the disposal of goods; is that correct, sir?

Mr. CLAYTON. That is true only with reference to contractor inventories which may be sold for war production.

Senator REVERCOMB. What is your thought on broadening that power of the Administrator not only to regulate price policies, but distribution policies?

I had in mind the thought that some particular agency of government in distributing this surplus property may dump the whole amount into the lap, or sell it to some particular company engaged in a particular work where there are several competitors. Don't you think that the Administrator should have some policy of distribution, some over-all policy of distribution, of even surplus goods?

Mr. CLAYTON. I would like to emphasize again that this section relates only to contractor inventories and not to what we ordinarily call surpluses out of supply, and in many cases this is property which is really not owned by the Government, or which the Government has no title to, but which will potentially be Government property. And the reason that we have left there a wide degree of discretion to the procuring or owning agency is this: That there is a provision now which the Army has put into the form of regulations, and which is provided by statute in the contract termination bill, that within 60 days after a contractor submits an inventory of property which he will turn over to the Government in connection with the termination of his contract, such property must be removed by the Government, or the contractor will have the right to put the property out at the risk of the Government.

Now, in view of the fact that you have a very short time within which to turn around, and in view of the further fact that while the war is on, the manpower situation is very critical, the storage situation is very critical and becoming more so, and it is highly important to get rid of this property if possible, for other war production, to other contractors, within that short period of 60 days, we have felt that there should be allowed to the owning agency a very wide degree of discretion except as to price, and we have provided for the control of the pricing policies; we have already issued regulations with reference to that. But for the reason which I have stated, and I can hardly exaggerate the importance of getting rid of this stuff while it is at the plant where the contract has been terminated, in order to avoid the necessity of using manpower, using transportation facilities, trucks, railroad cars, and so on, and what is perhaps even more important, trying to find some place to store it when you get it out of the contractor's plant, we have felt that this wide discretion was necessary.

Senator REVERCOMB. Of course, I am approaching it from another viewpoint, Mr. Clayton. I am thinking of surplus property after the termination of contracts, let us say, which comes into the hands of the Government, and it is desired by some private enterprise, or a number of them in a particular field of work. Now, is the agency, say the Army, going to have the right to sell all of that material to one party in that competitive enterprise?

Mr. CLAYTON. No, sir; they must be governed by War Production Board priorities and allocations while the war is on, and since this refers only to sales for war production, I think that when the war is over obviously it no longer applies.

Senator REVERCOMB. Thank you, sir.

The CHAIRMAN. All right, proceed, Mr. Clayton.

Mr. COLMER. I wonder if I may, Mr. Chairman, just follow the Senator's question a little further. What will apply then, Mr. Clayton?

Mr. CLAYTON. Then section 8 (c) comes into play, which reads:

Whenever he deems such action necessary to effectuate the objectives and policies of this Act, the Administrator, by regulations, shall restrict the authority of any owning agency to dispose of any class of surplus property under subsection (b) of this section.

So that we can take complete jurisdiction of it at any time that we think it necessary to do so—I mean the Administrator can—and take it out of the category in which you find it in (b).

Mr. COLMER. After it is finally declared surplus, at the termination of hostilities—is that what you have in mind, Mr. Clayton?

Mr. CLAYTON. It doesn't really have to be declared surplus. Oh, yes; it would be surplus property. We could tell them not to sell it, or we could tell them to whom to sell it, or at what price to sell it. I think, under this, the Administrator could issue any regulations he saw fit.

Senator LUCAS. Isn't paragraph (c) a complete answer to Senator Revercomb's inquiry?

Mr. CLAYTON. It refers only to paragraph (b). Paragraph 8 (c) refers only to paragraph 8 (b), and I think the Senator was talking about 8 (a).

Senator HAWKES. Mr. Chairman, may I ask Mr. Clayton just one question?

The CHAIRMAN. Senator Hawkes.

Senator HAWKES. To go back to that same point that I had in mind before—and I agree with you that that can wait for later consideration—but do I understand from what you just said that if there is a substantial amount of material in any plant, and the owning agency can authorize any contractor or subcontractor to take that material or dispose of it as he sees fit, that still the W. P. B. has the control of priority, as to where that goes during the war period?

Mr. CLAYTON. Yes, sir.

Senator HAWKES. Because that is the point I have in mind, in connection with that. If they have the same right to govern that by priority in the disposal of surplus material as they had originally in granting the priority in allocation, then that protects the thing.

Mr. CLAYTON. Yes, sir; they do.

Senator REVERCOMB. Then the distribution would be governed by the use of priorities?

Mr. CLAYTON. Yes, sir.

Senator HAWKES. Thank you very much.

Mr. CLAYTON. We have a clause in this act which so provides, and whether or not we had it in here, that would be the case.

Mr. WOLVERTON. Mr. Chairman, may I ask a question?

The CHAIRMAN. Yes, Mr. Wolverton.

Mr. WOLVERTON. Mr. Clayton, I am somewhat concerned as to the period beyond the war. I can readily realize how, during the war, whatever surplus materials a contractor may have would still be subject to priority rules and regulations. But having in mind that the Senate has already passed, and the House is passing today, the war

contract termination bill, which, in a measure enables a contractor, in making his settlement, to take into consideration the surplus material that he may have on hand, when it gets to the point where there is no war, and there is a settlement of these canceled contracts, is there any provision then made as to the allocation of that surplus material? I don't think we can pass it off entirely with the thought that there may not be any need of priorities or allocations at that time. I am inclined to think that there may be a shortage in some particular field.

May I illustrate my point by giving this example? Suppose a refrigerator company is now engaged in some war activity that has given it a preference or a priority in the obtaining of steel. If, on the termination of its contract, it can hold all the surplus that it has on hand at the time the contract is terminated, what do we do for the other competitor who may have been engaged in manufacturing some other war product which didn't require that large surplus of steel? Would it not give the first a preference over the second, unless there is some system of allocation or priorities?

Mr. CLAYTON. I think that is a very pertinent question.

To begin with, the contractor, under section 8 (a), who might wish to withhold the inventory for his own use, could do so only through agreement with the procuring agency, the contracting officer who was engaged in negotiating the termination of the contract.

Now, your question relates to the post-war period?

Mr. WOLVERTON. Yes.

Mr. CLAYTON. In that period, if there were no longer any regulations of the War Production Board with reference to priorities and allocations, under this act the Surplus Property Administrator could take over that function himself, by regulations which he would issue.

Mr. WOLVERTON. Is it your opinion that the War Surplus Director could do it better than the W. P. B. which made the original allocations?

Mr. CLAYTON. No, sir; I certainly don't think we could do it as well at the present time, because the W. P. B. has an organization for that purpose; it has had a great deal of experience, and we would much prefer to have that agency do it.

Mr. WOLVERTON. The testimony of Mr. Nelson before the House committee a few days ago seemed to indicate that there was some question as to whether he would have that power in the post-war period, and it seemed to some of us that it would be logical to continue that in his hands in view of the fact that he had made the original allocations.

Mr. CLAYTON. Yes, sir. Congress might want to do that, and so far as we are concerned we would be glad to see that done in reference to the matter of priorities and allocations, because it takes a good deal of machinery, it is a very difficult thing to do, and as I said a moment ago, W. P. B. has had the experience and it has the organization.

Mr. WOLVERTON. This bill, then, does not attempt to deal with that particular question?

Mr. CLAYTON. No, sir; but we can deal with it under the act as drawn in the post-war period, unless Congress should act otherwise and continue the powers, in that field, of the War Production Board.

Senator REVERCOMB. Mr. Chairman, one more question to clear up this very point.

The CHAIRMAN. Senator Revercomb,

Senator REVERCOMB. Do I understand that in the bill submitted by you this morning there is a provision that the disposal shall be made under the priorities of the W. P. B.?

Mr. CLAYTON. Yes, sir.

Senator REVERCOMB. Is that expressly stated?

Mr. CLAYTON. Well, we just preserve the act. That is contained in section 24 (b) on page 21:

Nothing in this Act shall impair or affect the provisions of the Emergency Price Control Act of 1942, as amended; or the Act of October 2, 1942, \* \* \* as amended; or of section 301 of the Second War Powers Act—

which is the allocation section under W. P. B.

Senator REVERCOMB. Now I asked that question because if you will turn to section 11 (a) on page 10, you will see this language:

Wherever any Government agency is authorized to dispose of property under this Act, then, notwithstanding the provisions of any other law but subject to the provisions of this Act, the agency may dispose of such property—

Do you construe that to mean that the agency is not authorized to dispose of surplus property until the W. P. B. says it may do so?

Mr. CLAYTON. The agency may dispose of it, but the buyer is on notice that he can use it only in accordance with the priority allocations of W. P. B. That is why we put it at the end of the bill, because it protects every provision of the bill in reference to that question.

Senator REVERCOMB. You think the two provisions are consistent for the reasons stated by you?

Mr. CLAYTON. I think they are.

Mr. Chairman, I think we had stopped at section 9 (b).

Section 9 (c) says :

The Administrator, by regulations, shall prescribe policies, standards, methods, and procedures to govern the exercise by any disposal agency of its authority under subsection (b) of this section.

Section 10 provides for transfers between agencies. I don't think that it is necessary to discuss that.

Section 11 provides for methods of disposition.

Section 11 (a) reads as follows:

Wherever any Government agency is authorized to dispose of property under this Act, then, notwithstanding the provisions of any other law but subject to the provisions of this Act, the agency may dispose of such property by sale, exchange, lease, transfer, or other disposition, for cash, credit, other property, or otherwise, with or without warranty, and upon such other terms and conditions, as the agency deems proper.

That, I would like to say, is still subject to regulations by the Administrator. I mean that the Administrator can control the exercise of the discretion by the disposal agency under that section, as under every other section.

Senator VANDENBERG. Could you give it away under that section, à la lend-lease?

Mr. CLAYTON. It doesn't say so, and they certainly couldn't do it, Senator, if they would sell it for anything at all, because that would be inconsistent with the stated objectives of the act, and the policies as outlined in section 12 of the act, which we will come to a little later.

Mr. DEWEY. Mr. Chairman, may I inquire of Mr. Clayton on this point?

The CHAIRMAN. Mr. Dewey.

Mr. DEWEY. There is a suggestion of gift in section 11 (b), and I presume that subsection (c) of the same section is going to carefully supervise any gift, distribution, or such. It says that you shall do that?

Mr. CLAYTON. Yes, sir.

Mr. DEWEY. And that would be the guarding clause?

Mr. CLAYTON. Mr. Dewey, you said there was a suggestion of gift in what section of the bill?

Mr. DEWEY. Subsection (b) of section 11—

\* \* \* the agency may donate such property to any agency or institution supported by the Federal Government of any State or local government.

Mr. CLAYTON. Yes.

Mr. DEWEY. And I notice that in the next section you are to prescribe regulations and safeguard that?

Mr. CLAYTON. Yes, sir. I think, if you have no further questions about subsection (a) of section 11, I had better read subsection (b).

Whenever the Government agency authorized to dispose of any property finds that it has no commercial value or that the cost of its handling and sale would exceed the estimated proceeds, the agency may donate such property to any agency or institution supported by the Federal Government or any State or local government, or to any nonprofit educational or charitable organization, or, if that is not feasible, shall destroy or otherwise dispose of such property.

The question has been raised as to whether that would be broad enough to permit the destruction of plants, and I understand that possibly some clarifying amendment may be offered by one of the other agencies on that section. Of course we do not think that it is broad enough to permit the destruction of any plant because before you can destroy it, under this section, you have to try to give it away, and I can hardly imagine that there is any plant that wouldn't be of some value.

Senator MURRAY. Mr. Chairman, may I ask a question?

The CHAIRMAN. Yes, Senator Murray.

Senator MURRAY. In the disposal of these large war plants, does your bill take into consideration the possibility of dividing them up and permitting a number of smaller concerns to use them in a sort of tenancy in common?

Mr. CLAYTON. The bill certainly would permit it, Senator Murray. I don't think it specifically gives that power, but it certainly would permit it, and we are actively studying just that question now.

Senator MURRAY. There is some study being given to that by some outside organizations, as I understand, to create a sort of industrial market out of some of these very large buildings dividing them up among a group of manufacturers, like the Furniture Mart, for instance, in Chicago, or something of that kind.

It would seem to me that that would be a feasible way of permitting the smaller plants of the country to utilize some of these large war plants.

Mr. CLAYTON. It is an extremely interesting idea and, I think, has great possibilities, and we are studying it right now. Obviously, some of these big plants, as, for example, the aircraft plants, the aluminum plants, and others, we all know cannot, in peacetime, be continued in the production of the same thing that they are now producing today. There simply will not be a sufficient peacetime market for aircraft,

aluminum, or magnesium to absorb the output of these plants. There is not even enough wartime market to absorb all of the aluminum.

So we have to do something else with those plants, and we are considering right now, and will continue to consider actively, the best way of disposal; and, as I say, the idea which you have just referred to is extremely interesting in that regard.

Senator MURRAY. An experiment has taken place up in Massachusetts, I believe, in the case of the Amoskeag plant, where the community has taken over that plant and divided it among a number of concerns, and I understand that it has worked out very satisfactorily.

Mr. CLAYTON. Yes, sir. There are numerous examples of that kind. I understand that in England it was done in quite a number of cases before the war started. So we have some history of the movement to refer to, and some people who have had experience in those things will, of course, be consulted.

The CHAIRMAN. The terms of the bill are broad enough to permit the Administrator to deal with that problem?

Mr. CLAYTON. Yes, sir; section 2 (g) defines care and handling.

The term "care and handling" includes repairing, converting, rehabilitating, operating, maintaining, preserving, protecting, insuring, storing, packing, handling, and transporting.

So that we think it is quite broad enough to permit making a change in plant, altering it in such a way that instead of being used for one large integrated operation, it can be used for several smaller operations, even though we might have to spend some money to do it, and of course we would.

Senator LUCAS. With respect to section 11, the powers delegated to the Administrator under that section for the disposition of surplus property are almost unlimited, are they not?

Mr. CLAYTON. Yes, sir.

Senator LUCAS. In other words, if section 11 should become the law, the Administrator would have practically the same power to make disposition of surplus property as an individual would have to make disposition of his own property?

Mr. CLAYTON. Well, hardly, I think, Senator Lucas. He would have to act under the stated objectives of the act and the policies outlined in the act.

Senator LUCAS. I understand that, sir. You believe, though, that this power is absolutely essential in order to efficiently and economically, and with some expedition, make disposition of this surplus property?

Mr. CLAYTON. Yes, sir; I do.

The CHAIRMAN. All right, Mr. Clayton, I think perhaps you had finished with section 11, unless there are some other questions.

Mr. CLAYTON. I think I should read all of section 12, "Policies governing disposition."

SEC. 12. In formulating regulations to govern the care and handling and disposition of surplus property under this Act, the Administrator shall be guided by the objectives stated in section 1 of this Act, and shall give effect to the following policies to the extent feasible.

I call attention, Senator Lucas, to that language that states that the Administrator shall be guided by the objectives stated in section 1 of his act and shall give effect to the following policies to the extent feasible.



Then section 12 continues:

(a) To facilitate transfers of surplus property of one Government agency to other Government agencies for their use.

(b) To afford public, governmental, educational, charitable, and eleemosynary institutions and cooperative organizations an opportunity to fulfill their legitimate needs for surplus property.

(c) To afford returning veterans an opportunity to establish themselves as proprietors of agricultural and business enterprises.

(d) To afford smaller business concerns and agricultural enterprises generally an opportunity to acquire surplus property on equal terms with larger competitors, and to discourage sales to speculators, by assuring reasonable notice of such dispositions, by disposing of such property in appropriate quantities, by using commercial channels of distribution to the maximum extent consistent with efficient and economic distribution, by collaborating with Smaller War Plants Corporation, or by other appropriate means.

You may want to discuss subsection (d) a little.

Take, for example, the reference to speculators, "to discourage sales to speculators." The word "speculator," I expect, is rather difficult to define. We have adopted this policy in our operations under the Executive order, particularly with reference to discouraging sales to speculators, and I have often been asked what a speculator is.

We think that, for example, if you have two or three million pairs of shoes to sell, the obvious way is to work with the wholesale shoe dealers. If some man comes along who is a casual trader, not regularly in the shoe business, and he wants to buy two or three million pairs of shoes, or whatever it is that you have to sell, we look upon him as a speculator.

Of course there is a certain element of speculation, I suppose, in nearly all commercial transactions. If a wholesale shoe dealer bought two or three million pairs of shoes, he might be speculating somewhat.

But what we have in mind, and what we think is the idea of the public and of Congress, as expressed in these hearings and in the mail that we get, and the newspaper editorials we read concerning speculators, is that these casual traders who come in and want to try to buy Government property cheap, and mark it up and distribute it at a considerable profit, are people that we don't want to deal with regularly.

Still, I don't think it would be wise to shut them out entirely because the regular fellows might not offer what you think the property is worth, that is the regular shoe wholesalers. There is always, of course, the possibility, if you provide that you shall deal only with the regular commercial channels of trade, that there might be some collusion.

So that if the wholesale shoe dealer offered \$2.25 a pair for the shoes, and that was the most you could get from any of the wholesale shoe dealers, and some fellow came along who wasn't a regular shoe dealer and offered \$3 a pair for them, I would think that it is in the interests of the Government to sell them to him.

We had an example a short time ago that the Treasury reported to me of some surplus refrigerators that it had for sale. That Department finally got \$55 apiece for them from a man who wasn't a regular distributor of refrigerators, while the most it could get from the regular dealers was something under \$50. The Department felt it was right to sell them at \$55 to the other man, and I felt it was right, too.

I don't think that we should draw the act, or that we should draw our regulations in such a way that we are absolutely tied to refusing to trade with people of that kind.

Senator MURRAY. Mr. Clayton, would it not be possible to prevent speculators from making any huge profits on the resale of any of this property by providing a tax, an excess-profits tax, on any profit that they made beyond a reasonable amount?

Mr. CLAYTON. Do you mean, Senator, a tax that would be different from the existing excess-profits tax and more onerous?

Senator MURRAY. A tax on the resale of surplus property purchased from the Government.

Mr. CLAYTON. Well, as a merchant in surplus property, trying to sell it, I don't think I would be quite in favor of that because it seems to me that it would be a discrimination against a man who was buying from the Government, and in favor of one who might be buying it from a manufacturer.

Senator MURRAY. Well, I don't quite understand what you mean. It seems to me that if a person was able, as a speculator, to purchase a huge quantity of shoes, for instance, at a dollar a pair, and then undertook to sell them for \$4 a pair, that he would be making an unconscionable profit on the transaction, and with a provision in there that upon the resale of any purchased surplus property the seller would be required to pay a tax beyond what would be a reasonable profit to be allowed, wouldn't that handle it?

Mr. CLAYTON. Isn't he required to do that now, under the revenue laws?

Senator MURRAY. Well, no; I don't understand so. There is a tax on his profits, of course, on his entire business, but I am talking about this particular speculation that he would be engaged in.

Mr. CLAYTON. Well, Senator Murray, that certainly might be worth considering, but I would just like to point out that on a resale of that kind, while the O. P. A. statute is in existence, it, of course, would be under its price ceilings, and if the O. P. A. statute were not in existence we could always provide in the sale a limitation on the mark-up that the buyer could put on the goods.

Senator MURRAY. I see.

Mr. COLMER. Mr. Chairman, may I address the witness?

The CHAIRMAN. Mr. Colmer.

Mr. COLMER. Mr. Clayton. I am very much impressed with the obvious necessity for great leeway and discretion on the part of the Administrator in disposing of this property. Yet I must say that I think it must ever be borne in mind that the public will be very conscious and will react very unfavorably to any speculative profits, and the press will play up these so-called atrocity cases. In fact, we have already had a few of those. So I think that if any safeguard such as Senator Murray has suggested—I don't know whether that is feasible or not—could be added, it would be worth considering.

Mr. CLAYTON. Yes, sir; I think any device to prevent windfall profits in these transactions is well worth considering. Of course, we must bear this in mind, that speculators do not always make profits, sometimes they suffer losses, and if you limit the opportunity for some who profit too greatly, you would thereby limit our market for disposal.

But I want to repeat that we don't ordinarily deal with speculators, we try to avoid dealing with them, but in the examples that I gave, sometimes you feel that in the interests of the Government and the taxpayer you must deal with them.

Senator VANDENBERG. Would a fly-by-night merchant, who operates under the name of an Army and Navy store, for instance, be a speculator?

Mr. CLAYTON. Well, Senator, if he is a fly-by-night merchant, I would think so, yes; but many of these stores, a good many of the so-called Army and Navy stores, have been established for a long time. But most of the consumer goods that we would sell, which would be sold by the disposal agencies, I would think would be disposed of through wholesalers, most of the consumer goods in large quantities, the reason being that it just isn't possible for the Government to build an organization of sufficient scope to deal direct, certainly, with its 130,000,000 citizens, and it would be extremely difficult to build an organization that could deal direct with the hundreds of thousands of retailers that we have over the country.

Senator VANDENBERG. Senator Kilgore wanted me to ask you whether the bill deals in any way with the disposition of patents.

Mr. CLAYTON. No, sir; it doesn't mention patents anywhere in the bill. Of course, patents are property, I take it, and I would think that this bill would be broad enough to include patents.

The CHAIRMAN. If any of the Federal agencies were the owners of patent rights, yes; but only then.

Mr. CLAYTON. Yes; it only deals with Federal agencies.

Senator PEPPER. I am a member of the Patents Committee and am interested in that subject. The War Production Board has had a very fine subdivision, I understand, which has done a lot of very effective research work, stimulated a lot of effective research work. I am sure that many other agencies of Government have done the same thing. They will have knowledge of processes, even if they don't have technical ownership, which may be subject to disposition. I am sure there will be very valuable property interests which the Government would have the control of.

Now if you think there is any question about the lack of authority to deal with that subject adequately, on the part of the Administrator, it might be well to see to it that it is clarified. Wouldn't you think so?

Mr. CLAYTON. Yes.

Senator PEPPER. If I may interrupt the committee further, at the bottom of page 11, under the heading "Policies Governing Disposition," it says:

In formulating regulations to govern the care and handling and disposition of surplus property under this Act, the Administrator shall be guided by the objectives stated in section 1 of this Act, and shall give effect to the following policies to the extent feasible.

Then over on the following page, subsection (e), line 20:

To afford former owners of surplus real property acquired by the Government by the exercise of its war powers an opportunity to reacquire such property.

I think where real estate has been bought by the Government to build an Army camp or for some other purpose, and the needed use for it has passed, that it is perfectly proper, upon reasonable terms, to give the previous owner the first opportunity to reacquire it.

But I am wondering whether we should add a further limitation after the word "feasible," at the bottom of page 11, so that it would read in part:

\* \* \* to the extent feasible in the public interest—

I suggest that to take care of this sort of a situation. I know of some cases where toll bridges have been taken over, there have been some taken over in my State by the War Department, I mean by the Government under the certificate of the Secretary of the Navy or the Secretary of War.

Now where a toll bridge is taken over and freed for public use, and it has already been acquired half by the State and half by the Federal Government, under a law which authorized that and provided for the freeing of that bridge and the maintenance of it by, say, the State, I would want to be sure that that didn't give any necessary legal right to the former owner to come in and say, "You must sell this back to me."

If you find it in the public interest you might have authority to sell it back, but I wanted to be sure that there was no mandatory power on the Administrator to make him turn back all such public property, if it might not be in the public interest to do that.

Mr. CLAYTON. I think your suggestion is good as to the addition of those words at the end of section 12, page 11, after the word "feasible," but, in the example that you give I think that a toll bridge probably wouldn't be surplus property.

Senator PEPPER. Well, it might not be, I wouldn't consider it so, but I just happened to think of that.

The CHAIRMAN. There might, however, be come instances involving surplus property where you would of course look to the public interest. Senator Pepper's suggestion, I think, has a great deal of merit in it.

Mr. CLAYTON. Yes; I think it is quite pertinent.

Senator MURRAY. Mr. Chairman, Senator Lucas has a bill pending, S. 1775, to provide for restoring real property acquired by the United States for military purposes, to the former owners thereof.

I would like to inquire if you have access to Senator Lucas' bill?

Mr. CLAYTON. Yes, sir; I am familiar with it, Senator Murray, and we have discussed that principle a great deal; we have thought about it a great deal. I have a good deal of sympathy for the idea that a farmer, for example, who had to sell his property, his farm, perhaps under condemnation proceedings, to the Government for war purposes, should have an opportunity to repossess it when it is no longer needed by the Government. It would be our idea—and in fact we are following that policy now in the sale of surplus real property as distinguished from industrial property—to give the former owner the first opportunity to repurchase, but on equal terms.

We have no authority to give any preference in price, of course, and we do not recommend that a price preference be given. If you do that, of course, you introduce several elements into the situation. You introduce the element of adverse selectivity against the Government always.

The former owner, who now feels that his property is worth more than it was when he sold it to the Government, would of course want to take it back. In those cases where the property is not worth so much as it was when he sold it to the Government, he wouldn't take it back.

Then, administratively, it is extremely difficult to work out. In most cases the physical character of the land has been changed, you have taken structures off and you have put new structures on, and you

have built roads, and so on. So that administratively it is an extremely difficult thing to do, to say that the former owner would have the right to repossess the land at the price at which he sold it to the Government.

Senator PEPPER. If I may interrupt you right there, Would it be possible for the Administrator to fix a price, which would be to the Government a fair price, and then if the owner were willing to pay the fair and fixed price so that the Government would be protected, then he would get first choice; but if he were not able or willing to pay, that then it would be a matter of sale at public auction?

Mr. CLAYTON. Yes, sir; that would be possible. Of course, the only way in which we can determine the market price of any property is to work the market, and test the market thoroughly.

Senator PEPPER. Well, you would have the advantage, in the first place, of the appraisal of that property when it was acquired—there generally would have been an appraisal either in court or through governmental agencies.

Mr. CLAYTON. That is right.

Senator PEPPER. And you would know what you had actually paid for it and the time which had elapsed since that purchase, so you would have a standard, which you don't have in the ordinary case, to know what a piece of property was worth.

Mr. CLAYTON. Yes, Senator Pepper, but a good deal of this property was bought back in the early part of 1942, over 2 years ago, and there has been, as you know, a substantial change in values in that time, particularly in good farm lands, so that in many cases lands which were purchased for, say \$150 an acre, may now be worth \$250 an acre.

Senator PEPPER. Yet you have this sort of moral, or if not moral, morale feeling—take in many of our States—there have been home owners, farmers, who have been dispossessed of their property in order to serve the public interest during the war. I regret to say that in many cases they have had to wait months, and sometimes a year or two to get their money, and they have been seriously inconvenienced.

Now, then, after the war is over, maybe when they haven't found a satisfactory opportunity to reestablish themselves, for that man to see somebody from the city, or somebody from another community, or even some man who didn't have to give up his property in the same community, come in and, because he is able to pay a little more than the original owner, buy the property out from under him—it would be perfectly legal, but you can understand how that fellow would feel, "Well, I gave up my property for the war, and the war is over now, and if I am willing to pay a reasonable price to buy it back, it looks to me like I should have the first chance."

You can understand how natural that feeling would be?

Mr. CLAYTON. I certainly can, and I sympathize with people in that position, particularly people who, as you say, had to give up their property under condemnation proceedings, and people who perhaps had to dispose of their farms which had been in the same family maybe for three generations—you can understand their wish to repossess that property.

I, personally, would certainly not be opposed to a provision which would state that the Administrator, in such cases, would put on the property a fair and equitable valuation and offer it to the original

owner at that price. But I do think, Senator Pepper, that it would not be administratively feasible, and I doubt the advisability of saying, that he should repossess the property that he formerly had at the price at which he had sold it to the Government, even though it had been under condemnation.

Senator PEPPER. I agree to that. I didn't know about that bill of Senator Lucas, but don't you think that all of this should be headed under one authority? You shouldn't have one law dealing with the disposition of real-estate surplus, and another law dealing with patent surplus, and another law dealing with something else. Wouldn't you think it desirable that this whole subject of disposition of surplus property should be headed up under one authority?

Mr. CLAYTON. Yes, sir; I think that would be preferable.

Senator MURRAY. Mr. Clayton, there are a number of bills pending purporting to deal with the disposal of surplus property.

Mr. CLAYTON. Yes, sir.

Senator MURRAY. You have seen all those bills, I suppose?

Mr. CLAYTON. I am afraid I haven't seen all of them, Senator Murray, but I have had digests of most of them furnished me.

We come now, I think, to section 13, disposition of plants. [Reading:]

SEC. 13. (a) The Administrator shall exercise supervision over dispositions of surplus Government-owned plants to insure that such dispositions do not foster monopolies, undue concentration of industry or commerce, or restraint of competition.

(b) Whenever the Administrator considers that any proposed disposition of a Government-owned plant or group of plants, except pursuant to an option therefor, may violate the antitrust laws, he shall notify the Attorney General of the terms of the proposed disposition before it is made. If the Attorney General reports in writing that, in his opinion, the proposed disposition will violate the antitrust laws, the disposal agency shall not carry it out. If the Attorney General fails to make such a report within thirty days after the receipt of the notice of the proposed disposition or within such additional period, not exceeding thirty days, as he may specifically request, the disposal agency may proceed with the disposition. The failure of the Attorney General to make a report hereunder shall not bar any prosecution for violation of the antitrust laws.

I would like to comment on that section, which is based on a provision which appears in several of the pending bills.

The section is designed both to require the Administrator to scrutinize all dispositions of industrial plants in order to avoid monopoly, concentration, or restraint of competition, and requiring him to submit to the Attorney General in advance any proposed disposition which he considers may violate the antitrust laws.

As we all know, any such provision for advance submission to the Attorney General is novel. He is charged with the administration of the antitrust laws and can sue or prosecute for violation at any time. But ordinarily he acts after the fact and not before. Obviously, advance submission to him of every case where there is a doubt in the Administrator's mind will frequently delay disposals and may sometimes prevent them in cases where time is of the essence.

The Attorney General, in a letter to me, of which copies have been submitted to several of the committees, has suggested an alternative provision which would not require advance submission in any case, but would clearly preserve his duty to enforce the antitrust

laws. I think his proposed provision is preferable to section 13 in the bill before you, and I recommend that you give it careful consideration. Our reason for presenting to you section 13 as written is that in several pending bills, Members of Congress have indicated a belief that some such provision is desirable.

Section 13 of the draft bill goes as far along the path indicated by these pending bills as we felt was possible without seriously interfering with the job of plant disposal.

I would like to discuss briefly the corresponding provision of the Kilgore bill, to indicate our reasons for this feeling.

The Kilgore bill requires advance submission of every proposed disposition of a plant costing over \$1,000,000. This is a mandatory delay of at least 30 days, and in most instances 60 days, in the sale of every plant that amounts to anything, even though it is perfectly clear that the proposed sale could not possibly result in any restraint on competition. Many buyers simply would not be interested under those conditions, and the Government would lose desirable sales for no good reason.

The Kilgore bill extends the Attorney General's function beyond that of ruling on questions of law, and gives him a veto power over the Administrator on questions of policy. Such a divided responsibility would never work, and the prospect would not be inviting to a buyer who was trying to negotiate a firm business deal.

The Kilgore bill would require certain limitations to be included as conditions of every sale of a plant, which we strongly feel would so cloud the title of a purchaser that no responsible buyer would risk his money on a purchase.

These conditions would limit the purchaser's right to resell the property and even subject him to the danger of losing his plant if he could not get business enough to operate at full capacity. The buyer, under those conditions, would almost be buying a liability rather than an asset. Every corporate balance sheet of a purchaser would have to have a footnote indicating that the corporation did not really own its plant and could not freely sell or mortgage it.

Under such conditions, I am afraid there would be very few sales of plants.

These latter provisions indicate clearly the force of my opening statement, that we must face the facts. The policy embodied in these provisions is desirable and is clearly stated in the draft bill, that sales shall be made to people who will themselves put the plant to full productive use, and are not buying as dummies for resale to a monopoly, nor as speculators for a quick profit. You can so instruct the Administrator, and the draft bill does so do, and he will be bound to carry out your instructions; but if you instruct him by mandatory provisions under which no one will buy, plants will be idle and people will be unemployed and, it seems to me, you will thereby have defeated your own purpose.

Senator PEPPER. Mr. Clayton, what was that change? I am not sure that I got the technical significance of it.

Mr. CLAYTON. The Attorney General's suggestion?

Senator PEPPER. Yes.

Mr. CLAYTON. The Attorney General suggests this substitute for the section that I read:

Nothing in this Act shall impair, amend, or modify the antitrust laws or limit or prevent their application to persons who buy or otherwise acquire property, or any interest therein, under the provisions of this Act. Upon the request of the Attorney General, the Administrator, or any other Government agency, shall furnish or cause to be furnished to the Attorney General such information as the Administrator or any such agency may possess which the Attorney General determines to be pertinent to the application of the antitrust laws to the disposition of surplus property under the provisions of this Act.

Senator PEPPER. So that the buyer simply buys at his own risk, so far as subsequent prosecution is concerned?

Mr. CLAYTON. That is right; and this suggested substitution is entirely satisfactory to us.

Mr. COLMER. That would leave the Attorney General just where he is.

Mr. CLAYTON. Yes, sir.

The CHAIRMAN. But the purchaser would get no immunity by virtue of having bought from the Administrator.

Mr. CLAYTON. No, sir; none.

Senator HAWKES. That would leave the purchaser in the same position as he always has been, under the antitrust laws; if he violates them he is subject to prosecution.

Mr. CLAYTON. That is right.

Senator HAWKES. It does not change the ordinary status of operation.

Mr. CLAYTON. There is no change whatever.

Senator PEPPER. Mr. Clayton, referring to section 13 (a) again, you have made the criterion whether the acquisition of the plant by the purchaser would constitute a violation of the antitrust laws.

Judge Holmes, you know, said one time that everything from the "12" tables to the present time is a matter of degree.

Now, I am sure there are degrees of concentration of economic power which are not in the public interest, and yet perhaps do not constitute a violation of the Sherman Antitrust Act. I wonder, there again, if there might be a little larger discretion vested by the language of the act in the Administrator, something again about the public interest?

For example, you may think that a given commodity—we will take aluminum—of course, as all of us think, it has been selling too high, the price has been kept up, there hasn't been a wide enough use of the substance aluminum by the public; and that if there were more people in the business they would use the product, which has been so marvelously developed during the war, to a wider public interest.

Now, shouldn't you have that consideration in mind also? You have that authority, of course, as a part of your general authority. But I should like to keep in mind, in the disposition of this property, what is going to be the public effect from your disposition—whether it is going to result in wholesome competition and the fullest use of the resources that we have, in the public interest, in keeping prices down to where you can get the largest possible consumption. Every housewife, I presume, would like to have aluminum pots and pans if she was able to pay for them.



Now we have it, I dare say, to a point where the prices can be very much lower than they were before the war. I would like to see those considerations in the mind of the Administrator, as well as whether or not it would constitute a violation of the antitrust law for somebody to acquire it.

Mr. CLAYTON. I agree with everything you say, Senator Pepper, and think that any Administrator under this statute would be compelled always to take those considerations into account in making disposition of surplus property.

Senator PEPPER. Have we any language in our declaration of policy or objectives that would suggest those considerations?

Mr. CLAYTON. I think so; yes, sir.

For example, in the objectives, section 1 (e) says—

to discourage monopolistic practices, preserve, and strengthen the competitive position of small business, and promote fair prices to consumers;

I think that is exactly what you have just stated.

Senator PEPPER. Yes; I think that covers it.

Mr. CLAYTON. And (c) says—

to promote production, employment of labor, and utilization of the productive capacity, and the natural and agricultural resources of the country;

Senator PEPPER. Yes; those are very good objectives.

Senator JOHNSON. Mr. Chairman, may I ask a question?

The CHAIRMAN. Yes, Senator Johnson.

Senator JOHNSON. I don't find anything in section 13 or section 14 with respect to the dislocation of pre-war industries. I notice in section 1 (d) one of the objectives is "to avoid dislocations of the domestic economy and of international economic relations."

But there is nothing in either section 13 or section 14 which gives any assurance against the dislocation of pre-war industries in the disposition of these plants.

Mr. CLAYTON. That is correct, Senator, and I think that such a provision in language of that kind might be undesirable, because it might subject the Administrator to a great many pressures which would make it difficult for him to make disposals. He certainly would, under the objectives named in the act and the policies, have to take such matters into consideration in making disposals. But I am afraid if a specific language provision were inserted to that effect, it might subject him—he is going to be subjected to plenty of pressure on that ground in any case, because in disposing of this property, especially in the post-war period, whether it be personal property or real property, plants, or whatever it may be, one of the great burdens of the Administrator is going to be to have to listen to pressure groups who will feel that the disposition of the property will put them out of business or will interfere with their business.

The CHAIRMAN. All right, Mr. Clayton. We may be keeping you longer than you intended.

Mr. CLAYTON. Oh, no, sir; I have plenty of time.

Mr. COLMER. Senator George, if I may, we have the contract termination bill up on the floor of the House, and I find it necessary to leave. I dislike very much to leave this very interesting meeting, but I must go.

The CHAIRMAN. We thank you for coming over, Mr. Colmer. We will provide you with a full transcript of the record we make today.

Mr. COLMER. Thank you.

Mr. CLAYTON. Section 14 is an important section, and reads:

SEC. 14 (a) No Government agency shall dispose of any surplus Government-owned plant for the production of synthetic rubber, or aluminum, which originally cost the Government \$5,000,000 or more, except in accordance with this section or pursuant to an option therefor.

(b) The Administrator may authorize any disposal agency to lease any such surplus plant for a term of not more than 5 years subject to the provisions of section 13.

The Attorney General has suggested that that period be left open within the discretion of the Administrator, instead of being limited to 5 years; and that is agreeable to us, if Congress wishes so to legislate.

(c) The Administrator shall prepare and submit to Congress a report setting forth a proposed plan of disposal for each class of such property. After 6 months from the submission of his report, unless the Congress provides otherwise by law, the Administrator may authorize the appropriate disposal agencies to dispose of such property in accordance with the plan proposed in the report to Congress.

(d) The Administrator may authorize any disposal agency to dispose of any materials or equipment related to any surplus plant covered by subsection (a) of this section, if such materials and equipment are not necessary for the operation of the plan in a manner for which it is designated.

(e) This section shall not apply to any Government-owned equipment, structure, or other property operated as an integral part of a privately owned plant and not capable of economic operation as a separate and independent unit.

—what we ordinarily refer to as scrambled facilities.

The CHAIRMAN. That is a rather important provision in the bill. Of course, you are dealing here with the synthetic rubber and aluminum plants; and our policies, of course, haven't been very well defined so far as, for instance, synthetic rubber is concerned. We have a great many related problems that will be up for consideration sooner or later, and here you simply are trying to have the lease or disposition outlined, in plan, with ample opportunity to study it and for the public agencies, including Congress, of course, to study it, before there is a final disposition of the property.

That, I take it, is the real purpose of this provision.

Mr. CLAYTON. Yes, sir; it is.

Senator PEPPER. Does that mean there would be no major dispositions of property until that 6 months' period has elapsed?

Mr. CLAYTON. Of the synthetic rubber or aluminum plants only.

The reason we included that provision with reference to those two types of plants only, is this: We felt that as to synthetic rubber, that was a type of plant that perhaps the public was more interested in than any other character of plant that had been built by the Government during the war, particularly with reference to post-war disposal and use. Furthermore, it may be that the question of the synthetic rubber plants may be included in international agreements or arrangements of some kind. I don't know, but that is possible.

So that we felt that as to synthetic rubber, Congress would certainly want to have a look at the proposed plan of disposal or operation of those plants, and had a right to do so; and that no Administrator would want to dispose of them on his own.

As to aluminum, I think it is more or less obvious why we included the aluminum plants in that provision—because, up to the beginning of the war, the private production of aluminum in this country was pretty much in the hands of one corporation, and the Government

now owns, I think, about two-thirds of the total aluminum-producing capacity of the country. And we felt that Congress would want to have a look at any plans for the disposal of those plants.

The CHAIRMAN. All of those plants cost \$5,000,000 or more, did they not, Mr. Clayton?

Mr. CLAYTON. Yes; I don't think there is one that cost less.

The CHAIRMAN. I assumed that they would all have cost the \$5,000,000 or more that you had included in the bill.

Senator PEPPER. Is steel not in the same category?

Mr. CLAYTON. We don't think so, Senator Pepper. Some of the other bills included in that category steel plants, oil pipe-lines, ships, and maybe one or two other types of property or plants. We don't think steel is in that category. The steel industry in this country is less centralized today than it was 40 years ago, a good deal less centralized or concentrated than it was 40 years ago. And we don't think—

Senator PEPPER (interposing). Do you happen to recall offhand what percentage of the present plant productivity the Government owns?

Mr. CLAYTON. I do not. I would like to ask Mr. Klagsbrunn, if he is here, what percentage of the total productive steel capacity of the country is owned by the Government?

Mr. KLAGSBRUNN. Approximately 10 percent.

Senator HAWKES. May I ask Mr. Clayton a question?

The CHAIRMAN. Yes, Senator Hawkes.

Senator HAWKES. Do I understand that under section 14 (b), you have the power to go ahead and lease a plant, so as to keep up employment and production, for any time from nothing up to 5 years; while this provision to sell or dispose of the plant is being put before the Congress for its consideration?

Mr. CLAYTON. Yes, sir.

Senator HAWKES. So that nothing in this bill would disturb employment and the carrying on of the operations, if that was deemed advisable and necessary?

Mr. CLAYTON. That is right, Senator.

The CHAIRMAN. All right, Mr. Clayton.

Mr. CLAYTON. Of course, Senator, it might be that you could sell the plant, but couldn't lease it; or the situation might arise that there wouldn't be a customer for a lease—

Senator HAWKES (interposing). Yes, I understand that. But I mean, if you could find a lessee or a person who would lease the plant from you and continue to operate it, then you have the power under this clause to do that thing?

Mr. CLAYTON. That is correct; yes, sir.

Senator HAWKES. That is all I wanted to know.

Mr. CLAYTON. If there are no other comments on section 14. I will go to section 15:

SEC. 15. No option of any person to purchase or otherwise acquire Government-owned property shall be honored except in strict conformity with the price and other terms of such option. If any such option is not exercised, the property shall be disposed of in accordance with the provisions of this Act.

I would like to comment a little bit, Mr. Chairman, on that section 15, and without going into questions of language or draftsmanship, I

would like to explain our intentions in dealing with the subject of options.

Most contracts under which the Government has financed industrial plants or equipment to be operated by private companies contain provisions permitting the private operator to buy the property when it is no longer needed for war production. The price is usually clearly specified in the contract, and is usually cost less depreciation or cost less amortization, whichever gives the greater return to the Government.

The executive agencies whose contracting officers signed the contracts embodying such options are certainly contractually committed to carrying them out in accordance with their terms.

The feeling of the majority of the committee which drafted the proposed bill was that a surplus-property act was not an appropriate vehicle either for clearing up any doubts which may exist as to the validity of such options, and the possibility of antitrust liability resulting from their exercise, or for casting any doubt on the question. We therefore have provided, first, that such options shall be honored only in strict accordance with their terms; and, second, that the provisions in sections 13 and 14, which restrict sales of industrial plants in certain instances, shall not apply to the exercise of an option.

It was our intention, and we believe the language carries it out, thus to leave the options where we found them. If anyone is now entitled to question whether an option is valid, or to assert after its exercise that an antitrust law violation has resulted, the proposed bill is not intended to alter that situation.

But it did not seem proper to place, by provisions such as those of sections 13 and 14, obstacles in the way of an agency which regarded itself as contractually bound to carry out an option which it had signed.

We thought that to include options in the procedural requirements of sections 13 and 14 would be affirmatively to cast doubt upon them, and that this would depart from our desire not to affect them one way or the other.

I may add that we do not regard section 15 as important. It merely declares what we feel would clearly be the law without it. It was inserted mainly because several of the bills now pending have included it. We would not object to its deletion.

A number of the agencies, however, would strongly object to subjecting options to the provisions of sections 13 and 14.

Senator PEPPER. What are the terms, generally, of the options with respect to plants?

Mr. CLAYTON. It gives the contractor an option to purchase, within a certain short period after the termination of the war, at cost less depreciation or cost less amortization—which means the rentals that have been collected on the plant—whichever gives the Government the more money.

The CHAIRMAN. We were advised earlier in our inquiries, Mr. Clayton, that few, if any, of these options would be exercised.

Mr. CLAYTON. We expect, Senator George, that will be the case. We don't expect to sell many plants by the taking up of the options. The prices are too high in most cases.

The CHAIRMAN. There might be, of course, some instances where they would exercise the option.

Mr. CLAYTON. Yes, sir.

Senator AUSTIN. What is an example of "otherwise" acquiring—an option to "otherwise acquire"?

Mr. CLAYTON. Where is that, Senator Austin?

Senator AUSTIN. In line 7, on page 15—

No option of any person to purchase or otherwise acquire Government-owned property—

what is an example of that?

Mr. CLAYTON. I would like to ask our general counsel, Mr. Scott, to reply.

Mr. STUART N. SCOTT (general counsel, Surplus War Property Administration). Under the emergency plant facilities contracts, the title to the facilities remains with the contractor during the 5-year period in which the Government reimburses him for the cost of it, 60 months, one-sixtieth each month; and at the end of that period the option then comes into effect. But in effect, it is an option to retain rather than an option to acquire. It reads that the title is transferred to the Government unless he exercises his option and pays the Government back, rather than the right to acquire. That was the reason for that language.

Senator AUSTIN. Thank you.

Mr. CLAYTON. If there are no further comments on section 15, the next two sections of the act, Mr. Chairman, deal with regulations of the Administrator and general provisions, and I think we might skip those and go down to disposition of proceeds, on page 17:

SEC. 18. (a) All proceeds from any transfer or disposition of property under this Act shall be deposited and covered into the Treasury as miscellaneous receipts, except as provided in subsections (b), (c), (d), and (e) of this section.

(b) From the proceeds of such transfers or dispositions, the agency may deduct all expenses incurred for the care and handling, completion, and transfers or dispositions of such property under this Act, and may reimburse the fund or appropriation bearing such expenses, or the corresponding fund or appropriation currently available at the time of reimbursement.

(c) Where the property transferred or disposed of was acquired by the use of funds either not appropriated from the general fund of the Treasury or appropriated from the general fund of the Treasury but by law reimbursable from assessment, tax, or other revenue or receipts, then upon the request of the interested agency the proceeds of the disposition or transfer remaining after any deductions under subsection (b) of this section shall be credited to the reimbursable fund or appropriation or paid to the owning agency.

(d) To the extent authorized by the Administrator, any Government agency disposing of property under this Act (1) may deposit, in a special account with the Treasurer of the United States, such amount of the proceeds of such dispositions as it deems necessary to permit appropriate refunds to purchasers when any disposition is rescinded or does not become final, or payments for breach of any warranty, and (2) may withdraw therefrom amounts so to be refunded or paid, without regard to the origin of the funds withdrawn.

(e) Where a contract or subcontract authorizes the proceeds of any sale of property in the custody of the contractor or subcontractor to be credited to the price or cost of the work covered by such contract or subcontract, the proceeds of any such sale shall be credited in accordance with the contract or subcontract and shall not be subject to subsection (a) of this section.

The use of appropriated funds is, I think, the usual one.

The delegation of authority:

SEC. 20 (a) The Administrator may delegate any authority and discretion conferred upon him by this Act to any Deputy Administrator, and may delegate such authority and discretion, upon such terms and conditions as he may prescribe, to the head of any Government agency to the extent necessary to the handling and solution of problems peculiar to that agency.

(b) The head of any Government agency may delegate, and authorize successive redelegations of, any authority and discretion conferred upon him or his agency by or pursuant to this Act to any officer, agent, or employee of such agency or, with the approval of the Administrator, to any other Government agency.

(c) Any two or more Government agencies may exercise jointly any authority and discretion conferred upon each of them individually by or pursuant to this Act.

### Applicability:

Sec. 22. All policies and procedures relating to surplus property prescribed by the Surplus War Property Administration, created by Executive Order Numbered 9425, dated February 19, 1944, or any other Government agency, in effect upon the effective date of this Act, and not inconsistent with this Act, shall remain in full force and effect unless and until superseded by regulations of the Administrator or of the agency in accordance with this Act.

Sec. 23. (a) Nothing in this Act shall limit or affect the authority of commanders in active theaters of military operations to dispose of property in their control.

(b) The provisions of this Act shall be applicable to dispositions of property within the United States and elsewhere, but the Administrator may exempt from some or all of the provisions hereof, dispositions of property located outside of the continental United States or in Alaska, whenever he deems that such provisions would obstruct the efficient and economic disposition of such property in accordance with the objectives of this Act.

Sec. 24. (a) The authority conferred by this Act is in addition to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent herewith. This Act shall not impair or affect any authority for the disposition of property under any other law, except that the Administrator may prescribe regulations to govern any disposition of surplus property under any such authority to the same extent as if the disposition were made under this Act, whenever he deems such action necessary to effectuate the objectives and policies of this Act.

Then subsection (b) is one which I read previously, which states that the sales and disposition are under the O. P. A. and the W. P. B. regulations as to priorities and allocations.

I think the rest of it is more or less routine.

The CHAIRMAN. Yes; it would seem to be.

You haven't yet supplied the penalty provisions?

Mr. CLAYTON. No, sir; that is in preparation.

Senator REVERCOMB. Mr. Chairman.

The CHAIRMAN. Yes, Senator Revercomb.

Senator REVERCOMB. Is there any provision here for accounting by the agencies of the Government to the General Accounting Office?

Mr. CLAYTON. No; there is no such provision.

Senator REVERCOMB. Do you not think there should be accounting for these transactions?

Mr. CLAYTON. That, of course, is, I believe, quite a controversial subject. I don't think we ought to have anything in this statute relating to it. There must be other statutes relating to the subject, and I think that we should avoid putting any provision in here on that subject.

Senator REVERCOMB. That would permit the agencies to go ahead and dispose of this property, collect the money and dispose of it, according to the terms of the act, without showing an accounting therefor.

Mr. CLAYTON. I don't so understand, but I may not be thoroughly familiar—I know I am not thoroughly familiar—with the statutes on that subject. I would dislike very much to see any provision in this law which might be construed as casting any cloud on a title which any agency might be able to give to any property that it might dispose of.

Senator REVERCOMB. I am not thinking of a cloud on the title, but I am thinking of clearing the transaction through the agency. I don't believe it would affect the right or the title of the purchaser, but it would simply be an accounting, as every business transaction should be accounted for.

Mr. CLAYTON. I have heard—I don't know how important it is—that a good many business people fear that in the purchase of this—at any rate, contract termination property—that some question might be raised later, if the property is supposed to have been purchased too cheaply, as to whether the buyer might be subjected to penalties or have to pay a higher price, or something of that kind.

Senator REVERCOMB. That would be well taken care of, because if I remember correctly, in S. 1718—which was passed by the Senate—the only ground upon which the transaction could be disturbed would be fraud; and that is always a sound ground for disturbing a transaction.

Mr. CLAYTON. Certainly, I agree.

Senator REVERCOMB. And the accounting would be more or less a relation between the selling agency of the Government and the people. I suggest that you give consideration to that, sir.

Mr. CLAYTON. Well, do not existing statutes cover that point?

Senator REVERCOMB. I am not able to say whether any statute covers that point. But I am impressed with the thought that in a statute as broad as this, reference should be made to it.

I am advised that the general statutes on accounting for transactions of this kind do not cover transactions under this bill.

Mr. CLAYTON. May we consider that point?

Senator REVERCOMB. I would be very happy if you would do so, because I think it is important.

Mr. CLAYTON. We will do that.

The CHAIRMAN. Are there any further questions that anyone wishes to ask of Mr. Clayton?

(No response.)

Mr. RUSSELL. Mr. Chairman, a good many of the agencies—I think all of them—that are represented on Mr. Clayton's Board, came in to offer their views to the committee; but the committee was so interested in Mr. Clayton's testimony that I assume you cannot wait longer to hear them. If you would appoint a time for them to come back and present their views, I think it would give the committee the full picture.

The CHAIRMAN. I would be glad to, Mr. Russell, at the earliest convenient time, because we would like to get early action on this bill.

Mr. RUSSELL. Suppose I undertake to find out when the earliest convenient time will be, rather than attempt to appoint that time at the moment, and advise you so that you can call the meeting?

The CHAIRMAN. I think that would be desirable; but if possible, at a very early date, because we would like to proceed with this.

Mr. RUSSELL. I would like to do it during the early part of the week.

The CHAIRMAN. And you can't wait until too late in the week, because we have a convention.

Mr. RUSSELL. Would Tuesday, tentatively, suit the chairman?

The CHAIRMAN. Yes.

Mr. RUSSELL. Suppose we tentatively set it for Tuesday, then, Senator, and call it for that time.

The CHAIRMAN. That would probably be all right, say at 10 o'clock on Tuesday.

Mr. RUSSELL. And we will ask the House committee to come back over.

The CHAIRMAN. Yes; we would be glad to have the House committee present, and any of the other committees that were invited here today.

Mr. Clayton, we want to thank you for your appearance here, for your statement to us, and for the very valuable assistance that you are rendering in this rather important field.

Mr. CLAYTON. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Mr. CLAYTON. Thank you for your patience in listening to me.

(Whereupon, at 1 p. m., the committee recessed until Tuesday, June 20, 1944, at 10 a. m.)



# POST-WAR ECONOMIC POLICY AND PLANNING

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TUESDAY, JUNE 20, 1944

CONGRESS OF THE UNITED STATES,  
COMMITTEES ON POST-WAR ECONOMIC POLICY AND PLANNING,  
*Washington, D. C.*

## EXECUTIVE SESSION

The committees met, pursuant to adjournment, at 10 a. m., in room 312, Senate Office Building, Senator Walter F. George (chairman of the Special Committee on Post-War Economic Policy and Planning of the United States Senate), presiding.

Present: Senators George, Barkley, Vandenberg, and Revercomb; Representatives Colmer (chairman of the Special Committee on Post-War Economic Policy and Planning of the House of Representatives) and Lynch.

Also present: Mr. Scott Russell, counsel for the Senate Post-War Economic Policy and Planning Committee.

The CHAIRMAN. The hearing will be in order, please.

We are continuing the consideration of this proposed bill to provide for the disposal of surplus Government property and plants.

I see, listed first, Captain Strauss. Captain Strauss, you may come around here, please, sir.

## STATEMENT OF CAPT. LEWIS L. STRAUSS, NAVY DEPARTMENT

The CHAIRMAN. Captain, we will be glad to have you proceed directly in your own way with reference to this proposal which was discussed by Mr. Clayton at the last meeting of the committee.

Captain STRAUSS. Thank you, Mr. Chairman.

I assume Mr. Russell has explained that I am a witness for another Senate committee this morning.

The CHAIRMAN. Yes, sir.

Captain STRAUSS. I have a statement, sir. It is brief, and with your permission, I will read it.

The CHAIRMAN. Yes, sir.

Captain STRAUSS. The Navy Department is glad of an opportunity to be recorded as urging the prompt enactment of legislation which will provide for the organization and policies to govern the disposal of property surplus to the needs of the Naval Establishment. The Navy Department early advocated centralized disposal of surplus as a means of avoiding duplication of effort and competition among the owning agencies of the Government.

Representatives of the Navy Department have collaborated in drafting the proposed bill which Mr. W. L. Clayton, Surplus War Prop-

erty Administrator, has submitted. We regard it as a sound and practical measure, which, while affording necessary administrative flexibility, nevertheless prescribes the definite congressional framework of policies and principles which are to govern administrative action.

The task is of huge dimensions and there will naturally be some period of trial and error, already begun under Executive order, and from which experience will be gained for the larger operation that lies ahead. Much has been accomplished by Mr. Clayton's organization, but it is evident that the successful completion of this essential part of our eventual conversion from a war economy can only be achieved with the aid of enabling legislation such as is now before you.

The CHAIRMAN. Are there any questions, gentleman?

Senator VANDENBERG. Do I understand that statement, Captain, to mean that you approve the Clayton proposal?

Captain STRAUSS. Yes, sir. I realize the language is pretty sweeping, and it is a sweeping approval, sir.

We think it is a good bill.

The CHAIRMAN. The Department collaborated in the preparation of the bill?

Captain STRAUSS. The Department did. Several of the officers connected with the legal establishment in the Department and with the Industrial Readjustment Branch, of which I am the head, have collaborated in the preparation of the bill.

Senator VANDENBERG. Are you familiar with the so-called Kilgore bill?

Captain STRAUSS. I am, sir.

Senator VANDENBERG. You prefer this bill?

Captain STRAUSS. I do, sir.

Senator VANDENBERG. Does that mean that you oppose the Kilgore bill?

Captain STRAUSS. I do not know whether the Navy Department has yet taken an official position with respect to the Kilgore bill. I personally regard it as unworkable. I am sorry that there is not an officer here who might be able to supplement my opinion. I don't know whether a letter has been written by the Secretary on the subject of the Kilgore bill.

Senator BARKLEY. The Kilgore bill deals with a great many more subjects than surplus property.

Captain STRAUSS. Yes, sir.

The CHAIRMAN. Any other questions?

Mr. COLMER. This bill is pretty broad in its discretionary power, is it not, Captain?

Captain STRAUSS. You are talking about the committee print?

Mr. COLMER. Yes.

Captain STRAUSS. Yes, sir.

Mr. COLMER. Do you think it would be practical for Congress to write standards and tighten the thing up a bit, or do you think it is essential in a matter of this sort, in an untried field, meaning thereby more or less pioneering in this field, for the Administrator to have broad discretionary powers?

Captain STRAUSS. My personal preferences, Mr. Colmer, are always for less administrative leeway, and more specific direction from the Congress. I think in a field as uncharted as this, and in a

subject as complex as this one is, that the administrative flexibility in this bill is not excessive.

As a matter of fact, I think it is the minimum with which a fair administration of the job can be done.

Mr. COLMER. That is all.

The CHAIRMAN. If there are no other questions, Captain, we thank you very much for your appearance.

The War Production Board is represented by Mr. Hawes, I believe, this morning.

#### STATEMENT OF ALEXANDER HAWES, ASSISTANT GENERAL COUNSEL, WAR PRODUCTION BOARD

Mr. HAWES. My name is Alexander Hawes. I am assistant general counsel.

Mr. Chairman, Mr. Nelson regretted very much his inability to appear this morning because of another engagement, and he asked me to state that the War Production Board favors the enactment of this bill.

It seems to us to contain the minimum procedures necessary to handle the situation. We believe that it provides an effective method of dealing with surplus property.

I think that is all I have to contribute.

The CHAIRMAN. Are there any questions?

Senator VANDENBERG. Are you familiar with the Kilgore bill, the comparable sections of the Kilgore bill?

Mr. HAWES. I am not, Senator.

Senator BARKLEY. Did the War Production Board sit in on the framing of this legislation?

Mr. HAWES. Yes; we had representatives both on the subcommittee which worked over the bill, and also on the board which later considered the draft.

Senator BARKLEY. Do you know how many of the departments of the Government or agencies collaborated in the preparation of this bill?

Mr. HAWES. I cannot tell. It is my impression about a dozen, but Mr. Clayton undoubtedly can tell you more about that.

Senator REVERCOMB. I note that in the proposed draft of the bill which you have before you, there is no provision for an accounting. That is, the General Accounting Office, after the transaction is approved, does not have to go over the transaction and approve it as an accounting transaction.

Do you think there ought to be some provision for that?

Mr. HAWES. I do not believe, Senator, that that represents any change in present procedure. I may be wrong about that.

Senator REVERCOMB. The general laws would not cover the accounting of this bill?

Mr. HAWES. I cannot express an opinion on that point.

Senator REVERCOMB. All right.

The CHAIRMAN. Thank you very much, Mr. Hawes.

Mr. Cox, from the Department of Justice, is not here at the present time. We will next hear from the War Department, General Clay.

STATEMENT OF MAJ. GEN. LUCIUS D. CLAY, DIRECTOR OF  
MATÉRIEL, ARMY SERVICE FORCES, WAR DEPARTMENT

The CHAIRMAN. General, will you give us your views on this measure?

General CLAY. Mr. Chairman, the War Department, as probably the largest holder of the property that is going to become surplus, has, of course, a very deep interest in its disposal. We have advocated for many months the establishment of a central disposal agency to be charged with the disposition of surplus property.

We are not equipped to handle it in the War Department. We do not think we should handle it while we are fighting the war, and we certainly do not think we should handle it after the war is over.

We participated in the subcommittee which Mr. Clayton set up to draft these proposals, and we are very, very much in favor of the bill. Not only do we recognize the need for temporary legislation; we think it might well, at some time, be made into permanent legislation.

The disposal of surplus property is a matter of current magnitude within the War Department. I think some figures that we have here might be of interest in pointing out the extent of the problem even at the present moment.

In the last half of 1943—and it was in the middle of 1943 that it first became a problem—and through the first quarter of 1944, over a period of 9 months we have actually redistributed or otherwise disposed of approximately \$261,000,000 of property. Actually it is a business now that is running in the neighborhood of \$35,000,000 a month.

Of course, we have for many months transferred all of our consumer-goods items to the Treasury Department for sale, as our own selling has been confined to salvage and scrap, which we believe we will have to continue to sell, because it accumulates in so many different places throughout the country and abroad, and the authorizing of sales to our contractors under termination proceedings.

We estimate that we now have in termination equipment property still not disposed of, but which will become available for disposal at an apparently early date, as the result of terminations now in process, approximately \$296,000,000 worth of property. That, of course, is a current problem.

We must terminate these contracts promptly, and we must move the property promptly to continue the contractors in the war business.

With the end of the war, of course, that problem of moving property promptly will be even more acute to permit rapid and prompt reconversions. We think it is probably the main problem in reconversion.

We face the acute problem of storage. There is a very great difficulty even now in obtaining storage space. That problem will, of course, be even more acute when the war ends.

For these reasons we are convinced there must be a responsible central agency set up and established to move property promptly and with sufficient authority within its discretion to permit flexible sales policies and flexible price policies to permit the rapid movement of this property.

We have a very vital interest, I think, sir, in one of the questions I heard raised at the first meeting of this committee on the question of who should declare property surplus.

We do have a feeling in the War Department that the declaration of military surplus should rest within the War Department as this bill provides. After all, we cannot, any of us, foretell at this particular period what the conditions will be even with the coming of the peace. We do not as yet have from the Congress naturally a future national defense policy. Until those factors are decided, and we know a great deal more than we do now, we believe that the guarding of the military surplus for national defense should rest in the hands of those who are responsible for national defense until congressional policy has been formulated, and the requisite report can be submitted to the Congress.

I believe that covers all the statement that I have to make.

The CHAIRMAN. Any questions, Senator Barkley?

Senator BARKLEY. Your attitude in regard to the War Department declaring its own surplus—you are more familiar with it—of course that applies to other departments in the same situation, does it not?

General CLAY. Yes, sir.

Senator BARKLEY. Have you any idea, that you would be willing to express, as to what the total value of surplus property will be when this war is over?

General CLAY. No, sir. We have made many efforts even to estimate it.

As a result of the cessation of contractual work in process, and based on the percentage of work in process that we have taken over on terminations up to date, I would estimate that there would perhaps be from three to four billion dollars of work in process that would result from the termination of contracts. Of course, the facilities in machine tools that have been provided for the Government run up into the figure of some 16 billion dollars, much of which will become surplus.

Up to the present time we have issued and made available to our troops somewhere in the vicinity of 35 billion to 40 billion worth of equipment. How much of that will become surplus will, of course, depend on obsolescence, on the size of the Army after the war, and on many other factors that are unknown at the present moment.

Manifestly, though, the figure will be a very, very substantial one. Perhaps, as far as the War Department is concerned, it is a good educated guess somewhere in the neighborhood of 10 billion to 12 billion dollars.

Senator BARKLEY. For the War Department?

General CLAY. Yes.

Senator BARKLEY. The total amount has been so much guessed at by various people that it will run from 10 billion to 75 billion dollars altogether. That gives enough margin to absorb the earth.

General CLAY. I guess if you take the very major military items of equipment, you would reach the \$75,000,000,000 figure, but that is taking in your tanks, self-propelled vehicles, and many other major items of cost.

Senator BARKLEY. It might include plants?

General CLAY. That is right, sir. Many of those will not become surplus as I see the picture for many years after the war.

Mr. RUSSELL. That \$75,000,000,000 figure has always been based on original cost, too, has it not, General?

General CLAY. I think it really represents the total cost of the end items produced by all contractors.

We have brought up here, sir, and we thought it might be helpful, an exhibit of various and sundry types of property in the back of the room, showing the original cost, and what we have been able to get on sales. The problem is particularly acute on gages, jigs, dies, and fixtures.

I think it is well to know that since Pearl Harbor, we have practically equipped our Army with weapons. There is hardly a major weapon that we have today that was in production at Pearl Harbor.

We are on our fourth model of the medium tank and the third model of the light tank. With everyone of those changes of models, you have a tremendous accumulation of jigs, dies, fixtures, and work in process. That accounts, in large part, for this \$298,000,000 of terminated property.

Senator REVERCOMB. General, may I interrupt?

General CLAY. Yes.

Senator REVERCOMB. What have you been doing with these obsolete tanks and guns?

General CLAY. In general we have not as yet done anything with respect to these obsolete tanks and guns, because, while they are not as good as the newer models, they still constitute a very worth-while war reserve for us to use.

Senator REVERCOMB. You have not discarded them?

General CLAY. No, sir; we have not discarded them. We have maintained them as a war reserve. They have, of course, reduced materially the need for the building, in number at least, of the newer weapons, because we have used the obsolete type for our reserves.

Senator REVERCOMB. Do you have any depots or stations where you do place obsolete material, such as tanks, guns, or any equipment of that kind?

General CLAY. Well, they are placed in our ordinary depots. Certain of the space in all of the depots is devoted to that type and kind of equipment. That is true in the signal equipment field, particularly in radar, where a new and improved model is coming out almost every month.

Senator REVERCOMB. What have you done with the old radar equipment?

General CLAY. Quite a bit of it is still in use, because we have never been able to completely replace it with the new type of equipment.

Senator REVERCOMB. Some of it has been discarded?

General CLAY. Some of it has been discarded, and the rest of it is in reserve in our depots. A good deal of the radio equipment we have dismantled and are using the parts in the building of newer and better types of radio.

Mr. COLMER. General, it is rather difficult, from your point of view, for the War Department to say just what is surplus and what is not surplus at this time, is it not?

General CLAY. It is extremely difficult, sir, with the exception of the terminated contracts, where we have work in process on an early model. Where an end item is concerned, it is impossible to say what is surplus, because we get requisitions that we must meet from the various theaters of war daily.

Mr. COLMER. You have to proceed with considerable caution as to the declaring of certain materials as surplus, do you not?

General CLAY. Yes, sir.

Mr. COLMER. I recall that I was out, as you were, to Detroit a couple of weeks ago, and I saw your exhibit of the surplus from one of the Ford plants where you were making tanks. That plant was closed down several months ago, was it not?

General CLAY. Yes, sir.

Mr. COLMER. On the theory that you were not going to need those tanks.

General CLAY. Closed down approximately a year ago; yes, sir.

Mr. COLMER. I read in the news dispatches this week that we had ordered the tank production stepped up as the result of the experience in France. I merely mention that to emphasize that it is rather difficult to say what is surplus and what is not.

General CLAY. Well, it runs all across the line that way. We have right now a very increased demand for heavy artillery. We do have an increased demand for tanks, which we are going to meet in large part by the rehabilitation and modernization of the large number of tanks which we have on hand.

Mr. COLMER. I was very much impressed with your exhibit on surpluses out there. I was convinced that it is going to be necessary to give the administrator considerable discretionary power in the disposal of these surpluses.

The CHAIRMAN. Does anyone else have any questions?

Thank you very much, General.

General Fleming, from the Federal Works Agency.

#### STATEMENT OF MAJ. GEN. PHILIP B. FLEMING, ADMINISTRATOR, FEDERAL WORKS AGENCY

General FLEMING. The Federal Works Agency has a twofold interest in the proposed legislation for the disposal of surplus Government property. Under the program authorized by the Congress under title II and title IV of the Lanham Act, we have provided many community facilities to meet war needs. When these war needs cease to exist we will have the responsibility of disposing of this property as surplus. On the other hand, we are responsible through our constituent administrations, the Public Buildings Administration and the Public Roads Administration, for large peacetime construction programs. These construction programs of highways, and grade separations and of post offices and other Federal buildings, are the potential users of large quantities of surplus material, equipment, and supplies.

Our interest, therefore, is both, as an agency responsible for a war activity which will cease with the end of the war need with property that must be disposed of, and as the peacetime construction agency of the Federal Government. In studying the proposed legislation from both points of view, we feel that it is legislation under which a good administrator can operate and carry out the policies and objectives set forth and under which equitable consideration can be given to agencies having surpluses and to agencies and the general public wishing to acquire surpluses.

We feel the fundamentals of sound management have been included in the legislation whereby the administrator has been given a statement by the Congress of the objectives and policies to be carried

out and then given broad discretionary authority to issue necessary rules and regulations for meeting the many different problems that will arise in carrying out these policies and objectives.

You have been through the legislation in detail and Mr. Clayton has explained to you the provisions from his standpoint as the present Administrator under the Executive order. I should like to further emphasize the fundamental policies in legislation from the standpoint of the Federal Works Agency, which, through its constituents will be both declaring certain classes of property surplus and will be in the market for other classes of property.

The legislation places full responsibility for administration of the act in the Administrator and provides an advisory board but does not create divided responsibility. The board will function purely in an advisory capacity. I think that this is sound and that the Administrator should be held finally accountable to the President and to the Congress for his administration.

In section 7 (a) the responsibility for determining surpluses is placed on each owning agency. This follows the same pattern of placing responsibility where it belongs—on the head of each agency and does not diffuse responsibility. The Administrator is authorized by regulations to establish policy methods and procedures, to carry out the purposes of the act, and to designate disposal agencies. We believe this is eminently sound. The Federal Works Agency believes it can convince the Administrator of the adequacy of our own methods and procedures and of the service we can render him as a disposal agency, and we have confidence in his final judgment on these matters.

We feel that the provision with regard to the transfers between Government agencies is sound and that the responsibility should be placed directly on the head of each Government agency to make the fullest practical use of surplus property. We further believe that the general policy providing transfers between Government agencies based upon payment by the acquiring agency and all sales to local public agencies and individuals at fair values is fair to everyone. We have dealt with practically every county and municipality in the United States and its territories, and we feel that the best interest of both the Federal and local units of Government will be served by requiring payment for all surplus rather than any general provision for gift and donation to any class or group.

I do not want to suggest anything which would delay the passage of this legislation. I think it is sound and is needed now. On the other hand, as one of the chief liquidators of the Federal Government, I think the Congress should also give consideration to the over-all problems of property management of the regular departments in their normal peacetime operations.

We have practically completed the liquidation of the W. P. A. We will have returned to the Treasury over \$120,000,000 in this process and we transferred to other agencies prior to the issuance of Executive Order 9235 hundreds of thousands of dollars' worth of equipment. There was no provision for the sale of this equipment to the local communities. We are now in the process of liquidating the P. W. A. and will return to the Treasury shortly after the close of this fiscal year \$10,000,000 of unused funds. Recently the N. Y. A. and the C. C. C. have also been liquidated. In each one of these instances the person in charge of liquidation had to proceed under limited legisla-



tive authority the agency had, and there was no sound basis for an over-all governmental policy.

If it is feasible, I think the President's recommendations of June 13 reporting on Senate Resolution 195 should be carried out and legislation similar in type to H. R. 2795, as it affects the permanent agencies of the Government, should be considered. I believe that the fundamental policies established in the surplus property legislation which places the full responsibility for property management upon the head of each department should be carried over into any modification of H. R. 2795.

I hope these combined committees will give legislative authority to the excellent work that Mr. Clayton is now doing under Executive order and will establish a permanent policy for management of Federal property by modifying H. R. 2795 to meet the principles in this pending bill. Perhaps 2795, which has passed the House, could be amended and have this legislation added as a separate section.

The CHAIRMAN. You refer to the O'Leary bill?

General FLEMING. Yes. I have been a member of Mr. Clayton's advisory committee under the Executive order since this office was established, and participated in the forming of this bill. I want to say the Federal Works Agency is very much in favor of it.

The CHAIRMAN. Any questions of General Fleming?

Senator VANDENBERG. No.

The CHAIRMAN. Thank you very much, General, for your appearance. The Reconstruction Finance Corporation, Mr. Klagsbrunn.

#### STATEMENT OF HANS KLAGSBRUNN, DEPUTY DIRECTOR, SURPLUS WAR PROPERTY, RECONSTRUCTION FINANCE CORPORATION

The CHAIRMAN. Will you give the reporter your name and position with the Reconstruction Finance Corporation?

Mr. KLAGSBRUNN. Hans Klagsbrunn, Deputy Director of the Surplus War Property, R. F. C.

The CHAIRMAN. All right, Mr. Klagsbrunn, we are very glad to hear you with respect to this problem that is covered in this suggested draft, discussed by Mr. Clayton at the meeting last week of this committee.

Mr. KLAGSBRUNN. Thank you, Senator.

I should like to join Mr. Clayton and other witnesses in recommending an early enactment of this legislation. We think it is a good bill. It sets a broad but specific framework of policy, and it provides a flexible, workable administration which we feel is absolutely essential in a situation where there is such a variety of problems of property, and of circumstances that will arise.

It also eliminates various minor but troublesome hurdles, and in that way, too, we feel it will very materially expedite and simplify the handling of surpluses in an orderly fashion.

Accordingly, we favor its early passage.

The CHAIRMAN. You collaborated in its preparation?

Mr. KLAGSBRUNN. We did. We collaborated in the preparation of the legislation and in the consideration of the draft.

The CHAIRMAN. Are there any questions?

Senator BARKLEY. Were there a good many divergent views among the various people who collaborated, as you started out?

Mr. KLAGSBRUNN. As I recall it, the views were not seriously divergent. There might have been differences as to how a particular objective should be accomplished, and the bill represents, in some respects, compromises; but it was in relation to matters which did not, to me, at least, appear to be fundamental.

Senator BARKLEY. Whatever differences there were in the beginning were ironed out and you came to a common understanding as to the best way to handle it?

Mr. KLAGSBRUNN. That is my understanding. I think Mr. Clayton, in the meeting of last week, stated an agreement between the agencies had been reached, with the exception, I believe, of the Smaller War Plants Corporation, which had a matter they felt could be handled efficiently by administrative regulations rather than by legislation. I believe the record so indicates, Mr. Clayton's statement.

Senator BARKLEY. Was that matter left to administrative regulation in the bill?

Mr. KLAGSBRUNN. Yes.

The CHAIRMAN. Are there any further questions?

We thank you very much.

Mr. RUSSELL. Mr. Leland is going to appear for the Foreign Economic Administration and is the next one you have on the list.

The CHAIRMAN. All right, Mr. Leland.

#### STATEMENT OF ROBERT LELAND, OFFICE OF THE GENERAL COUNSEL, FOREIGN ECONOMIC ADMINISTRATION

The CHAIRMAN. Will you identify yourself for the record, and your position with the Foreign Economic Administration?

Mr. LELAND. My name is Robert Leland. I am in the office of the General Counsel.

Mr. Crowley has authorized me to say that the Foreign Economic Administration is in favor of the enactment of this bill. We think it is by far the best of some 80 or 90 bills introduced on this subject.

We are particularly pleased with its recognition that there is a foreign disposal problem as well as a domestic one.

In that connection, I might point out that there is a matter that has not been touched on in the bill that the Administrator and Congress may wish to consider, and that is whether or not the Administrator should be authorized to prevent the return to this country of certain goods he decides to sell abroad.

The Tariff Commission and we favor power in the Administrator when he finds it necessary to prohibit the reentry of certain goods; we do not favor any complicated system of tariff barriers, setting duties on surplus goods.

There is another point raised by a suggested amendment of the Maritime Commission, and that has to do with ships—the disposal of merchant ships.

Mr. Crowley feels that this matter should be considered further by Mr. Clayton and the Maritime Commission, and plans to discuss it with them.

The CHAIRMAN. I believe Mr. Clayton suggested in his discussion that the disposal of ships be left with the Maritime Commission under existing law.

Mr. RUSSELL. That is right.

The CHAIRMAN. Is it believed that existing law is adequate to cover that?

Mr. LELAND. I do not have the precise language of the amendment, but if it is more restrictive than existing law—I am not sure it is—but if so, I think it would concern the Foreign Economic Administration.

Some of our allies have lost their merchant fleet in substantial part. We have a tremendous merchant marine in varying degrees of utility, and it might be to the country's interest to sell some such ships to some foreign purchasers. As I say, that is a matter we haven't thoroughly gone into, and Mr. Crowley wants to discuss it further with the agencies most involved before saying anything definite on it.

Senator BARKLEY. Isn't therefore the question involved in the problem, How big a merchant marine are we going to have when the war is over?

Mr. LELAND. Yes.

Senator BARKLEY. To what extent are we going to furnish ships to our competitors? We probably cannot use all we have for war purposes, but in determining what the policy should be, we ought to take a long view of it with reference to our future trade.

Mr. LELAND. Those elements are certainly a most important part of it.

Mr. RUSSELL. Mr. Chairman, in that connection, I have just gotten the language of Mr. Clayton's proposed amendment, agreed to by Admiral Land, and it does not change the present law in any way.

It says:

Provided, that merchant vessels or vessels capable of conversion to merchant use shall be disposed of only by the United States Maritime Commission in accordance with the provisions of the Merchant Marine Act of 1936, as amended, and other laws authorizing the sale of such vessels.

So it puts it exactly under the present Maritime Commission, as Mr. Clayton proposed.

Mr. LELAND. If it does not further restrict foreign disposal, we have no objection to it at this time. I point out that there is a very complicated subject involved here. There are bills introduced that change the existing laws in some respects and the Foreign Economic Administration has an interest in it.

I think that is all. I would like to emphasize again that we stand with the other agencies that have expressed their approval of this bill. We think it is workable, and a very necessary bill.

Senator VANDENBERG. Do I understand you think there should be a section added covering the discretionary authority to prohibit the reentry of surplus property from abroad?

Mr. LELAND. I think quite likely. A committee Mr. Clayton has designated is studying that matter right now. About all the committee has come to at this point is that the tariff barrier type of control would not be appropriate for this type of property. I just point out that authority in the Administrator to prohibit reentry, or permit it on certain conditions, where goods were sold abroad because there was a decision not to sell them here, might be necessary in order to carry out that policy.

Senator VANDENBERG. There is not any language available at the moment that would cover the point?

Mr. LELAND. I believe the Tariff Commission, in connection with another bill, has suggested some language, or will soon do so.

Senator VANDENBERG. It is your view, Mr. Clayton, that should be covered in this bill?

Mr. CLAYTON. I do not think so, Senator Vandenberg. We can provide that these sales made abroad should carry a condition that the goods shall not be reshipped to the United States. There are other suggestions or means of providing for that situation, and, as Mr. Leland has said, the committee is now studying that question, along with other questions relating to the disposal of surpluses abroad. I think a bill has been introduced, or is to be introduced, dealing with that subject. I could not say definitely now that we would or would not think that the provision should be included in this bill.

The CHAIRMAN. Are there any other questions of Mr. Leland?

Thank you very much, Mr. Leland.

The State Department, Mr. Jackson.

#### STATEMENT OF WAYNE JACKSON, OFFICE OF WARTIME ECONOMIC AFFAIRS, STATE DEPARTMENT

Mr. JACKSON. Mr. Chairman, I think all I need to say is we have gone over this bill in the State Department and it is satisfactory, as far as our interests are concerned. I would recommend the enactment of legislation of this type at as early a time as is possible.

The CHAIRMAN. Are there any questions you wish to ask Mr. Jackson?

Senator VANDENBERG. No.

The CHAIRMAN. Did the State Department participate in the preparation of this bill?

Mr. JACKSON. We were not represented on the drafting committee. However, the various drafts of the bill, as they were prepared by the committee, were shown to us and we had our opportunity to make our comments as we went along, and did so.

The CHAIRMAN. If there are no more questions, Mr. Jackson, we thank you very much.

Senator VANDENBERG. There is too much unanimity around here. There must be something wrong. (Laughter.)

The CHAIRMAN. The Treasury Department, Mr. Olrich.

#### STATEMENT OF E. L. OLRICH, PROCUREMENT DIVISION, TREASURY DEPARTMENT

The CHAIRMAN. Will you give us the views of the Treasury Department on this proposed measure?

Mr. OLRICH. The Treasury Department, Procurement Division, is now functioning as a disposal agency under the Executive order, and if we are so designated by the Administrator under this proposed act the Procurement Division of the Treasury Department believes it can function efficiently and satisfactorily under its framework, and the Treasury Department approves the bill in general.

The Department participated in the discussions leading to the formulation of this proposed legislation.

The CHAIRMAN. Are there any questions?

Thank you very much, Mr. Olrich.

The Civil Aeronautics Board, Mr. Adams.

**STATEMENT OF RUSSELL B. ADAMS, ASSISTANT DIRECTOR,  
ECONOMIC BUREAU, CIVIL AERONAUTICS BOARD**

The CHAIRMAN. Mr. Adams, did the Civil Aeronautics Board participate in the drafting of this measure or the study of it?

Mr. ADAMS. They did not participate in the drafting of it. They are, however, familiar with it.

The CHAIRMAN. Yes, sir.

Mr. ADAMS. The Civil Aeronautics Board is neither an owning nor a disposal agency for surplus property. The Board does, however, have a great interest in the utilization and disposition of surplus aircraft and parts. There will be literally thousands of aircraft which will become surplus. It will become necessary to dispose of these aircraft with economic and political wisdom in a world-wide market. Political and economic conditions are apt to be changed rapidly. It is necessary, therefore, that the disposal agency for surplus aircraft have wide administrative discretion in meeting the problems of surplus aircraft disposal.

The present bill appears to provide the powers necessary to undertake an intelligent program of disposal of surplus aircraft. It may be necessary at some later date, and after a further study, to request additional legislation relating specifically to problems of surplus aircraft disposal. The need for such specific legislation is not clearly defined at this time, however, and the Board hopes that the present bill will be passed.

The Board is today holding a very important and previously scheduled oral argument, and it is for that reason that the Board has authorized me to present the Board's statement. The Chairman of the Board, Mr. Pogue, is a member of Mr. Clayton's Surplus War Property Policy Board, and is also chairman of the Surplus Aircraft Advisory subcommittee appointed by Mr. Clayton to study the special problems of surplus aircraft disposal. I have assisted Mr. Pogue in that work. Mr. Pogue and the Board have, however, requested me to tell the committees that they would be very glad to make themselves available to the committees at any time, if they should so desire.

The CHAIRMAN. Any questions?

Senator VANDENBERG. When you say political conditions will be changed rapidly, I suppose you refer to external conditions?

Mr. ADAMS. That is right.

Senator VANDENBERG. Not in the United States.

Mr. ADAMS. Precisely.

The CHAIRMAN. Has Mr. Cox reported?

Mr. RUSSELL. Not yet.

The CHAIRMAN. Mr. Maverick. We will be ready to hear the Smaller War Plants Corporation.

**STATEMENT OF MAURY MAVERICK, CHAIRMAN, BOARD OF  
DIRECTORS, SMALLER WAR PLANTS CORPORATION**

Mr. MAVERICK. Mr. Chairman, in my opinion this bill is inadequate, and the inadequacy of the bill lies rather in a substantial omission of clauses urgently needed for the protection of free competitive economy during the critical period of transition from war to peace.

I want to especially call to the attention of this group that, as the representative of the Smaller War Plants Corporation, I am not asking for any special favors in charity, or special rights of any kind.

Now, this concerns surplus property and I want to present to you four points for legislation. If I were voting and were a member of this body, I would make a motion to recommit; but I do not know exactly all the clauses that would be in it, because I think they are, you might say, just beginning to be framed. I would want to submit four points that apply to this as well as other legislation.

First of all, the legislative power of the United States Congress should be jealously guarded. I do not subscribe to the theory that we should, because of the unanimity of agencies, adopt any legislation. Legislation is not adopted by votes of agencies but by votes of Senators and Congressmen.

The second thing is that before you legislate you should investigate the past and present methods and see if improvement can be made.

Third, small business, not as a special interest but as a part of the American economy, should be specifically pointed out and protected.

The fourth point is that we should specifically see to it that there is widespread publicity and notices; that there is widespread distribution of properties, and that sales are made in the smallest localities to little concerns.

When the contract-termination bill came up, it was, like all legislation, in a formative period. As adopted by the House of Representatives yesterday it is one of the greatest pieces of legislation ever adopted in America. The reason for this is that the Senate and House of Representatives proceeded slowly and saw to it that subcontractors and little businessmen were properly protected. That bill fairly teems with protection for the free-enterprise system and for small businessmen, and that is one reason why it is such an excellent piece of legislation.

I would like to point out to this committee that little business is getting the worst of it now, has been for some time, and especially since the beginning of the war. Manufacturers in metal products are getting less than half the proportionate amount of business they got when the war broke out. There is a great concentration of wealth and industry still going on—all of which makes the future for little business and free enterprise very dark.

This committee undoubtedly realizes that after the war we may have great convulsions in our economic and political systems. Certainly we should begin now to plan a legislative program to prevent such upsets.

In this legislation the free-enterprise economy is vitally concerned with the disposition of surpluses; and you gentlemen must realize that we are in a great period of scarcity in this country. Because of this scarcity we have rationing so that all may share equally.

There are three things that must be done in this bill. We must prevent large suppliers favoring big customers. We must prevent inflation, and we must prevent the disturbance of markets. Therefore, we must see to it that the small businessmen have a chance to purchase. It is not equality nor justice to say that the small businessman has an equal right with the big businessman if he has to come in and buy very large lots.

We must see to it that there is no inflation and we must see to it that there is a regularity of markets.

I want to emphasize to this committee that, with conditions as they are, it would be a very simple matter to move surpluses and to get the ceiling prices. At the same time 70 percent of the goods would prob-

ably go to the 100 leading buying groups in the country, just as in the earlier days of the war 70 percent of the prime war contracts went to the 100 largest producers. There was some excuse for that then, but there is no excuse for it at this time. At that time, we at least had the excuse that the pressure of war necessitated such procedure. But there is no such excuse in regard to the disposal of the vast bulk of surpluses, because those goods are not needed for war production. I have no intention to interfere in the slightest degree with disposals for war production. Let them go through the regular channels, as they must. Even there we might be careful to remember the small, as well as the large. But the vast bulk of these surpluses are not needed for war uses. That is why they are being sold and disposed of, and we certainly should never tolerate for a moment confining this distribution to the largest purchasers and crowding out the vast bulk of small and middle-sized businessmen.

I would like to go into some detail on notices, advertising, publicizing, which are basic to this bill and to the free-enterprise system. The products which are sold should not be sold in large blocks. We should see to it that credit is extended to the small businessman. He cannot go to Wall Street or to LaSalle Street and be financed for large operations. I want to make it very plain that we are not asking any favor at all for the small businessman.

I would like to quote some of the testimony by Mr. Clayton. In making this statement I want you to know that I have the very highest regard for him. I had it before I ever came to Washington, and I still have it. I think he agrees that honest differences of opinion are not harmful to a democracy. Mr. Clayton said:

The third fundamental is that there is only one interested group to which everyone belongs, and that is the taxpayers' group. Provided the economy is not otherwise adversely affected, that group is primarily interested in seeing that sales of surplus property are made in such a way as to recoup as much as possible of the money already spent. Every dollar that accrues to the benefit of any other group, however large and however meritorious, in the form of price reductions or gifts of property which could be sold at a higher price, is a dollar lost to the largest group of all. Price preferences to any group are just as much gifts of public funds as if they were made in cash.

Mr. Clayton continues:

The making of such gifts is the prerogative of Congress, and there are groups who deserve special consideration. But in almost every case where Congress desires to confer benefits on a particular class of citizens, it can do so much more equitably and satisfactorily by specific separate legislation designed for that purpose than by giving them preferential right to acquire surplus property.

Now, this refers to the taxpayers and to various classes of American citizens, and recommends that certain separate legislation should be passed according to the prerogatives of Congress. So I want to repeat again very forcibly that we are not asking charity for the small businessmen of America; we do not want them on the W. P. A. We are not asking for anything which will hurt the taxpayer.

If surpluses are sold widely and distributed in small lots you will get a higher unit price than if you sold in huge quantities. The aggregate financial return will be greater—and that is a benefit to all the people.

Another thing of great importance is that through proper distribution of surplus property you will raise the standard of living. For instance, if you sell a very large number of shoes, as did a high officer

of the Government who was in the Cabinet during the last war, to one group, he can go out and disturb the market for years afterward by dumping shoes in little towns and big towns. On the other hand, if you sell these at \$1.75, \$2, and \$2.50 a pair a great number of people will be able to buy shoes. And the market is not glutted.

As far as the taxpayer is concerned—well, everybody pays some kind of taxes—and so if we prevent inflation and convulsions in our economic system the taxpayer will be helped.

The Smaller War Plants Corporation is not seeking added responsibilities, but, at the same time, we do not shrink from any. And any that are given we gladly assume.

All agencies of Government, in order to widely distribute and publicize this, should be utilized for the effective distribution of surplus property. We have 112 offices throughout the United States. These men know small businessmen and they know their problems; most of them themselves have been small businessmen. We can, like the Reconstruction Finance Corporation and the Defense Plants Corporation, supplement publicity, or help, or we could even purchase amounts for wide distribution.

Now, I want to make one reference, and that is to page 12 of the bill where it says:

To afford smaller business concerns and agricultural enterprises generally an opportunity to acquire surplus property on equal terms with larger competitors, and to discourage sales to speculators, by assuring reasonable notice of such dispositions, by disposing of such property in appropriate quantities, by using commercial channels of distribution to the maximum extent consistent with efficient and economic distribution, by collaborating with Smaller War Plants Corporation, or by other appropriate means.

I think possibly Congress might set out what they mean by "equal terms." Does it mean that a small businessman who lives in Pecos, Tex., or way up in the Smoky Mountains, or some place like that, that he has the right to go to Philadelphia and buy something for \$10,000,000? What does it mean? For that reason I think you should study that particular point.

I wish to make reference now to section 20, on page 19, especially section (b), which is on page 20. On page 20 it says:

The head of any Government agency may delegate, and authorize successive redelegations of, any authority and discretion conferred upon him or his agency by or pursuant to this Act to any officer, agent, or employee of such agency or, with the approval of the Administrator, to any other Government agency.

I do not know exactly what that means, but when you talk of delegating power and redelegations and successive redelegations, you finally get down to the proposition where the Fair Employment Practices Committee will be deciding whether you are discriminating against somebody for not letting him have a delegation of power. That may sound facetious, but frankly that is a queer sort of provision. I merely suggest the study of that question.

Mr. COLMER. If you will pardon me, Mr. Maverick, I am not so sure but that the F. E. P. C. would not want to get in on that.

Mr. MAVERICK. Maybe I should not have brought that up.

Now, there has been such a tremendous unanimity that I think I ought to say a word about it. I think the Congressmen and the Senators can understand this. In the executive branch of the Government, when you disagree with a man you have a tendency to feel that maybe



you do not like each other; so I wish it to be recorded in the minutes of this meeting that I like everybody that I am doing business with; and there is not the semblance of any hard feeling. But one by one they come up here with clocklike precision and testify to exactly the same thing. I do not know whether that could be prevented by the Sherman Antitrust Act or what could be done about it. There is nothing bad about it but, nevertheless, they all believe that way. I want it on the record that I am not reflecting on anybody. I repeat I have the highest opinion of Mr. Clayton, whom I have known all my life as a very fine gentleman. The same applies to all the others. However, the tendency of a person in the executive branch of the Government is to have *carte blanche* law. I don't want to hamstring the Administrator of this act, but I am hired to represent small business in a free-enterprise system and I don't want to see the same mistakes made that were made in the last war.

I would like to submit an amendment, which would take me a couple of minutes to read, and then I will be through. It starts off this way:

(a) It shall be the duty of the Administrator and he is hereby authorized and directed to devise ways and means and prescribe appropriate regulations and directives to prevent any discrimination against small business concerns in the disposal and distribution of any Government property covered by this Act. To that end the Director shall cause the owning and disposal agencies to adopt and pursue the following measures:

(1) Arrange for the widest practicable notice by advertisement or otherwise to be issued and disseminated by the agencies so that large and small concerns will be reasonably informed of the property offered for sale and the terms and conditions thereof.

(2) Reduce lots or blocks of any items offered for sale to the smallest practicable units so that they will be within the reach of small business concerns.

(3) In appropriate cases, in the discretion of the agency or the Administrator, arrange for sales on credit or time bases or such other terms or conditions as will preserve the competitive position of small business concerns in the purchase or acquisition of surplus property and accord them a fair opportunity for the acquisition thereof.

(b) Subject to the authority of the Administrator, the Smaller War Plants Corporation is hereby specifically charged with the responsibility of cooperating with the owning and disposal agencies, of making surveys from time to time, and bringing to the attention of the agencies, or the Administrator, any cases or situations which have resulted in or would effect discrimination against small business concerns in the purchase or acquisition of Government property by them and in the disposal thereof by the agencies.

(c) Subject to the authority of the Administrator, the Chairman of the Smaller War Plants Corporation shall have the right in behalf of the Corporation to acquire any surplus property for sale or other transfer to small business, or to make other suitable arrangements, when, in his judgment, such acquisition or other arrangement is required to preserve and strengthen the competitive position of small business, or will facilitate the Corporation in the discharge of the duties and responsibilities imposed upon it under Public Law 603, Seventy-seventh Congress.

(d) At least ten days before advertising for bids or posting notices of sale or transfer by other means, every owning and disposal agency shall notify the nearest regional office of the Smaller War Plants Corporation of the proposed items to be sold, the terms of disposal specifying the minimum quantities on which bids or offers shall be received and the credit terms, if any, for the purpose of permitting the Smaller War Plants Corporation to advise the disposal agencies if, in its judgment, the proposed terms discriminate against small business purchasers, or otherwise to perform its functions under this statute. Any differences or disputes that may arise hereunder shall be resolved by the Administrator.

(e) Wherever any industry committees are created for the purpose of advising owning or disposal agencies, or the Administrator, as to methods and means of disposal or any other matters relating to sales of war materials, reasonably adequate representation on such committees shall be accorded to small business concerns, and the Chairman of the Smaller War Plants Corporation shall be

notified and furnished a list of the members thereof and shall have the right upon request to have the Smaller War Plants Corporation represented thereon for the purposes of safeguarding the interests of small business concerns.

Now, in reference to this I might make this comment: I generally favor the Kilgore bill, but I think maybe the Kilgore bill goes too far in some particulars. If you would ask me the details of the bill, I could not answer the question because it would be difficult to answer without a specific analysis of the bill in front of me. I believe that the Kilgore bill, in certain portions of it, should be considered, and this amendment also should be considered. We might as well be frank about it. People say it is absolutely essential that this legislation be passed immediately. I think it is absolutely essential, like everybody else. The Congress will be in session until Saturday of this week. I cannot ask the Senators and Congressmen questions, I haven't got that right, but were I to have the right to ask that question, I doubt if they would say this bill can be enacted by Saturday of this week. I don't want to frustrate that plan. If Congress wants to pass the bill by Saturday, I certainly would not oppose it, because then I could come in afterward and ask for amendments. But considering the time necessary for debate and consideration, I do not think it can be passed by Saturday.

I think the bill as presented to you has many good qualities, but I believe time for consideration should be extended, so that the very best bill possible can be enacted. The contract-termination bill is excellent legislation—and as you know, it was carefully studied at length before being passed.

The CHAIRMAN. Thank you. Are there any questions of Mr. Maverick?

Mr. COLMER. Mr. Maverick, I am very much impressed with the objective which you seek and with the argument which you make; but, in the final analysis, there has to be substantial leeway and discretionary power left with the Administrator, hasn't there?

Mr. MAVERICK. Yes, sir.

Mr. COLMER. And in effect that is what you do with your proposed amendment; is it not?

Mr. MAVERICK. I do what?

Mr. COLMER. You leave the discretion, in the final analysis, with the Administrator.

Mr. MAVERICK. Yes, sir. Now, I would like to explain it this way: The part in the bill there that expresses a sort of a horror of monopoly and love of small business is something like a speech. The House of Representatives and the Senate, the Congress of the United States is not supposed to legislate speeches but is supposed to legislate legislation; and this amendment of mine is written in terms of legislation and not in terms of a speech or pious phrases.

Mr. COLMER. But in the final analysis it would have about the same effect; would it not?

Mr. MAVERICK. It would have a better effect, because it is a little more detailed.

Mr. COLMER. The point I am making is—and again I reiterate I am in sympathy with the objective, and I am very sincere in that—but, in the final analysis, there has to be discretion left with the Administrator. As I understand the amendment from your reading of it, you merely emphasize and point out that certain things ought

to be done, but, in the final analysis, it is left to the discretion of the Administrator. Is that right?

Mr. MAVERICK. Yes, sir; that is right, but it sets it out in more detail and sets it out more specifically and not in general terms.

Mr. COLMER. I should like very much, if it were possible, for the Congress to write the details into the law, but you realize—I think you agree with that—that it is impossible for the Congress to undertake to legislate in detail upon the disposition of so many and multitudinous details of the disposition of these surpluses.

Mr. MAVERICK. Mr. Colmer, I might say that the amendment that I offer is not very long. It is written in rather cryptic form and, should it be added the bill would still be a short bill.

Mr. COLMER. Don't misunderstand me. I have no objection, so far as I am concerned, to your amendment. The fact of the matter is I don't think it would have much force and effect, but I would still like to see it written into the bill, as far as I am personally concerned.

Mr. MAVERICK. I think it would have full force and effect for the reason it has specific statements in there.

The CHAIRMAN. Are there any further questions?

Mr. LYNCH. Mr. Maverick, as the bill stands now, there isn't anything in it that specifically aids small business?

Mr. MAVERICK. I would not think so.

Mr. LYNCH. Your suggestion in this proposed amendment is to make a definite declaration of policy on the part of Congress that small business should be taken care of in this disposal of surplus property?

Mr. MAVERICK. Yes, sir.

Mr. LYNCH. So that we will not be confronted with the same situation with respect to small business that we had when the war broke out; when the various heads of the procurement divisions expressed a great desire to help small business when, in fact, nothing was done for months and months after the war started.

Mr. MAVERICK. That is more or less a leading question, but I would like to answer it. I would like to say something right there. The answer, of course, is "Yes." I am fully in accord with the attitude that the military authorities took at the outbreak of the war, because they very ably and patriotically got the job done; but, as somebody said, the Smaller War Plants Corporation was created 2 years too late. It should have been created 2 years earlier. We have time enough now to study the economic effect of the convulsion that is bound to come after the war and attempt to prevent that convulsion.

There is an idea on the part of some people, and I do not cast any reflection on them, that when you have surplus property you ought to get rid of it at once just like they had the idea to get hold of arms and ammunition to kill Japs and Germans. The idea of immediate action was good for war—but it is not sensible to do the same thing when you are disposing of surplus property. So I think it is the absolute duty of Congress to see to it that disposal of surplus properties is carefully planned.

Mr. LYNCH. Let me ask you this: In subdivision (e) you say, "subject to the authority of the Administrator," in your proposed amendment.

Mr. MAVERICK. Yes, sir.

Mr. LYNCH. Just what do you mean by that? That the Administrator is going to have the right to say whether or not you shall be permitted to make purchases on behalf of small business?

Mr. MAVERICK. I will ask Mr. Podell to answer that.

Mr. PODELL. It had to be drawn that way, otherwise you would place the Smaller War Plants Corporation in a position where it practically could acquire unlimited quantities of merchandise. The Smaller War Plants Corporation does not desire that. The program is for the Smaller War Plants Corporation to make surveys to determine what is needed, so that the Smaller War Plants Corporation could act as a medium for wide distribution where the number of small purchasers in the aggregate requires large quantities.

Mr. MAVERICK. I think we might add to that, too, that we do not seek any vested rights or any superior rights over the Administrator. We should be subordinate, like all other agencies.

Mr. COLMER. I would like to ask the \$64 question.

Mr. MAVERICK, have you submitted this proposed amendment to Mr. Clayton?

Mr. MAVERICK. Yes, sir. We participated in the deliberations.

Mr. COLMER. This was apparently voted down?

Mr. MAVERICK. This was voted down with a minority of one. Mr. Clayton said that he did not object to it in principle, but said it should be included in the regulations, if that were to be adopted.

Mr. COLMER. Personally, I see no objection to it.

The CHAIRMAN. You are upon the Surplus Property Board?

Mr. MAVERICK. Yes, sir.

The CHAIRMAN. You were placed specifically on that Board?

Mr. MAVERICK. Yes, sir, and I am on that Board now, and we have a very pleasant time. We all get along with each other fine, but I would like to have this included in the bill.

The CHAIRMAN. You think if it were included in the bill, it would be helpful?

Mr. MAVERICK. Yes.

Mr. RUSSELL. Let me ask you one question about section (e). A similar provision is in the Kilgore bill, as you know. What has disturbed me is the possibility that, if the Smaller War Plants Corporation had an overriding priority for scarce materials, that that might result in shutting down very large plants that would employ a great many people.

Mr. MAVERICK. Mr. Podell will answer that.

Mr. PODELL. We expressly excluded, Mr. Russell, the priority provision for that reason practically. All we ask here is that, subject to the authority of the Administrator, we may purchase surplus property for the purpose of disposal.

Mr. RUSSELL. It says you shall have the right, in behalf of the corporation, to acquire any surplus property for sale or other transfer to small business.

Mr. PODELL. If the Administrator was willing to give it to us.

Mr. RUSSELL. You say "subject to the authority of the Administrator." Why would not that have to be "subject to the approval of the Administrator"?

Mr. PODELL. We will not object to that change.

Mr. RUSSELL. You have given the Smaller War Plants a specific grant of right here with no counteracting authority in the Administrator, or anyone else, as I see it.

Mr. MAVERICK. I would like to say, if you want to change the wording of that, we will be very happy to agree to it.

Mr. PODELL. At the present time we have no power, under the existing law, to purchase.

Mr. COLMER. As I pointed out a moment ago, it all goes back to the Administrator. He has to have his authority.

Mr. MAVERICK. If he has certain guiding principles set out by Congress, he is more likely to follow it than he otherwise might be.

Senator VANDENBERG. If you had this amendment in the bill, would you still prefer the Kilgore bill?

Mr. MAVERICK. I don't know enough about that bill, Senator, to answer that question; but I think this would make it all right.

Senator VANDENBERG. I am very hospitable to these Texas revolutions these days.

Mr. MAVERICK. I appreciate very much not only the part of the country that it came from but the political disposition that it came from.

The CHAIRMAN. With no further questions, thank you very much, Mr. Maverick.

The CHAIRMAN. Mr. Cox.

#### STATEMENT OF HUGH B. COX, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Mr. Cox. Mr. Chairman, I am sorry I was not here when I was first called; but it was a matter that concerned contract termination that occupied my attention earlier in the morning.

On June 1, the Attorney General wrote a letter to Mr. Clayton commenting on the draft of the legislation which is now embodied in this committee print. I think it would probably serve a useful purpose if I turned that letter over for your record this morning, because it states in summary form, I think, the essence of our position on the bill. So with your permission I would like to do that now.

The CHAIRMAN. You may do so.

(The letter referred to follows:)

JUNE 1, 1944.

Hon. W. L. CLAYTON,

*Administrator, Surplus War Property Administration,  
Washington, D. C.*

DEAR MR. CLAYTON: I have received your letter dated May 30, 1944, in which you ask for my views on the revised draft of the Surplus Property Act of 1944. The purpose of this proposed legislation is (a) to confer authority upon a central administration and upon various Government agencies to manage and to dispose of Government property, and (b) to prescribe general policies and standards that the agencies shall follow in exercising this authority. I approve this purpose and the general plan that the statute adopts to accomplish it. There are, however, a number of respects in which I find the substance of the present draft objectionable. They are:

1. Section 13 raises difficult questions of construction. In its present form the section may create doubts as to the effect of the statute upon the enforcement of the antitrust laws and upon the responsibility of the Attorney General for the administration of those laws. I suggest, therefore, that section 13 be eliminated and the following provision be substituted therefor:

"Nothing in this act shall impair, amend or modify the antitrust laws or limit or prevent their application to persons who buy or otherwise acquire property or

any interest therein under the provisions of this act. Upon the request of the Attorney General the Administrator or any other Government agency shall furnish or cause to be furnished to the Attorney General such information as the Administrator or any such agency may possess which the Attorney General determines to be pertinent to the application under the provisions of this act. As used in this section, the term "antitrust laws" includes the Act of July 2, 1890, ch. 647, 26 Stat. 209, as amended, the Act of October 15, 1914 ch. 323, 38 Stat. 730, as amended, the Federal Trade Commission Act, and the act of Aug. 27, 1894, ch. 349, secs. 73, 74, 28 Stat. 570, as amended."

2. I object to section 15 for the following reasons: It is not clear whether this section is intended to ratify and confirm all existing options. Section 17 (f) provides that the legislation shall not impair any valid contract or any provision in any contract and it would seem to follow that section 15 is unnecessary if its sole purpose is to preserve existing rights. If the section is intended to ratify the options, I believe that this purpose should be stated clearly and explicitly so that there will be no necessity for subsequent construction or interpretation of the provision. Furthermore, if section 14 is intended to ratify and confirm the options, its scope should be clearly defined. The section in its present form, taken together with the definition of the word "option" in section 2 (h), may be construed as ratifying and confirming the so-called "first-refusal" clauses although I am informed that this is not its purpose. I suggest, therefore, that this section should either be eliminated or changed to remove all doubts as to its scope and purpose.

I am not now prepared to express my views on the question whether, as a matter of policy, all of the options should be ratified and confirmed. I prefer to withhold this comment until I can consider the question on the basis of a provision whose purpose and scope is clearly defined. I think I should say at this point, however, that if it is proposed to ratify all the options, it is my view that the ratification should be so framed that agreements tainted with fraud or other illegality are not covered by its terms.

3. For the reasons that I have stated in paragraph 2, I object to the words "or pursuant to an option therefor" in subsection (a) of section 14.

4. Section 11 (b) directs Government agencies to destroy or otherwise dispose of property if it has no commercial value or if the cost of handling and sale would exceed the estimated proceeds and if it is not feasible to donate the property to certain designated institutions. It is undoubtedly true that some property, such as certain kinds of combat equipment, may have to be destroyed for reasons of safety or national security. It is true also that some kinds of property may be more useful as scrap than in any other form. Section 11 (b) in its present form, however, is so broad that it authorizes the destruction of plants, machine tools and other capital equipment. I do not favor any provision that authorizes the destruction of plants, machine tools, and other capital equipment before a report has been made to Congress describing the property and stating the reasons for its destruction. Furthermore, I am inclined to believe that before any plant is destroyed the approval of Congress should be obtained.

In view of the suggestion in your letter that it is not now necessary to comment on matters of form or language, I am reserving my comments of that kind for a later date. There are a number of minor suggestions as to the substance of the legislation which I shall also reserve for later discussion.

Sincerely yours,

FRANCIS BIDDLE, *Attorney General.*

The CHAIRMAN. Would you mind stating to us substantially the position of the Department?

Mr. Cox. I shall do that now. We stated in the letter that we approve the general purpose and plan of the legislation, and then proceed to make a number of comments as to points in the draft which we think are objectionable in their present form. I think, probably, that it is unnecessary for me to review all of those, because Mr. Clayton commented on a number of the more important ones when he testified in the executive session the other day—particularly the point about section 13, which is the section that deals with the antitrust laws and duties of the Attorney General thereunder. Mr. Clayton read at that time our suggestion for substitution for that section in its present form.

We also point out that we are very doubtful about section 15 in its present form, which is the section that appears on page 15 of the committee print. We are doubtful about that, not because of any doubts on the policy question that is involved, but because we think the section in its present form is so ambiguous that we are not sure what its effect may be, or, indeed, what its purpose is. Three purposes have been suggested. Mr. Clayton's view of the section was stated the other morning. He construes it as merely preserving the present options. We, of course, would have no objection to that, but there is another provision in the bill which seems to us to do that, which is the provision of section 17 subparagraph (f), which provides that no valid contract should be impaired.

Two other suggestions have been made about the meaning of the purpose of section 15. One is that it is intended to ratify and confirm the existing options. Without expressing any opinion on the policy question that is involved in that, we suggest that if that is the purpose of the section, then it should be clearly cast in that form, so there is no doubt as to what it is intended to do.

Another suggestion that has been made is that the section is intended to prevent the holder of an option from negotiating a more favorable option, or more favorable terms of sale from the owning agency. That provision might, it seems to us, raise grave administrative problems. But, again, if that is what the section is intended to do, we think it should be stated more clearly so there will be no necessity for construction or possibility of dispute. Our view really about that section is that if it is merely intended to preserve the existing options it is unnecessary and should be eliminated, and if it stays in the bill in its present form it may breed confusion and doubt about its interpretation.

The other comments that I think I should like to make this morning are that our Department believes that there is a real possibility that section 11 (b) can be construed as authorizing the destruction of Government plants and other capital equipment, and it is the Attorney General's view that certainly as to plants it would be desirable to provide that no Government-owned plant should be destroyed without the consent of Congress.

In the case of machine tools, he has also suggested, in this letter to Mr. Clayton, it might be desirable to have a provision that requires at least notice to Congress before machine tools or capital equipment of that kind is destroyed.

There are two more general observations that I should like to make, and then I think I shall have finished my statement.

The Department of Justice, because of its responsibilities under the Sherman Act, is of course very sympathetic with Mr. Maverick's interest in preserving the position of small business. Because the Attorney General is a member of the Policy Board, but under the executive order and through legislation, he will, so far as he can, influence the policy of the Administration, try to see that those policies are adopted, so far as it is feasible to do so. At the same time, the Attorney General feels—and he emphasized this in his testimony before Senator Murray's committee, to which I now respectfully direct the attention of the committee—that, because of the size of the problem and diversity of the property involved, the legislative directions which are given with respect to the policies concerning small

business must be cast, he believes, in such form that the Administrator is given enough discretion so that he will be able to operate in a practical way.

The other general observation that I think I should like to make is this, and this again is developed at some length in the Attorney General's testimony before Senator Murray's committee, and in the report that we afterward submitted to Senator Murray, and that is there is a grave need for some kind of enabling legislation, so far as the authority to sell is concerned. That is particularly true of real estate, because at the present time you have a hodgepodge of specific statutes, none of which are really designed to deal with a problem of this kind, some of them authorizing the sale of particular property quite clearly so there is no doubt as to the authority, but they are still inadequate for dealing in an orderly and expeditious way with the problem of surplus property that is going to face us when the war is over, and for that reason, simply so far as the legal problems are concerned, there is, the Attorney General feels, a real and pressing need for some kind of enabling legislation which will remove the doubts as to the authority that an owning agency has.

The CHAIRMAN. Did the Attorney General suggest any form of enabling authority?

Mr. Cox. He did not suggest a specific statute. I might say, sir, that the enabling provisions in this statute seem to us to be adequate to satisfy that need.

The CHAIRMAN. In this draft?

Mr. Cox. In this draft; yes.

The CHAIRMAN. I see.

Mr. Cox. There are, I may add, a rather large number of details in which we think that the language of this committee print might be clarified, but we have been in close consultation with Mr. Clayton's counsel. We are working on those matters now and we assume there will be an opportunity for us to work those out. I am confident we can do so, so I am not going to discuss those this morning. Most of them do not affect matters of substance but simply clarify language and remove ambiguities. We have been, as I say, working closely with Mr. Clayton's counsel on matters of this kind.

The CHAIRMAN. Any questions of Mr. Cox?

If not, thank you very much, Mr. Cox.

Mr. RUSSELL. Mr. Chairman, that completes the witnesses, but Judge Marvin Jones, the War Food Administrator, has asked that this letter from him be read into the record.

The CHAIRMAN. Yes; you may read it in.

Mr. RUSSELL. It is addressed to Hon. W. L. Clayton, Surplus War Property Administrator, Washington, D. C., and is dated June 1, 1944.

DEAR Mr. CLAYTON: The revised draft of a proposed Surplus Property Act of 1944 received with your letter of May 30, 1944, has been reviewed by representatives of the War Food Administration and of the Department of Agriculture and in general its provisions have our approval. We have, of course, considered the bill not only from the point of view of an owning agency and an acquiring agency, but also in contemplation of assuming the responsibilities as the disposal agency for all food (as defined in Executive Order 9280), naval stores, and agricultural and forestry lands.

The sale of large quantities of surplus foods in a well-supplied market will undoubtedly have an adverse effect upon market prices. We have a congressional mandate to support at specified levels prices for agricultural commod-



ities through loan, purchase, and other operations for at least 2 years following the war. In order to avoid additional operations in carrying out this mandate, the disposal agency for food should have broader authority to make food available for relief purposes than the bill presently contemplates. A requirement that food be sold in such cases would serve only to increase our responsibility to engage in other operations to counteract these sales. Further, under the provisions of the Agricultural Adjustment Act of 1938, as amended, and an item recurring in annual appropriations, there are certain price and quantity restrictions on sales by the Commodity Credit Corporation after they have been declared to be surplus and are for disposal under the terms of the bill. These, of course, are matters which can be dealt with at the time of the hearings on the bill.

We question the advisability of including in a general bill of this kind specific reference to the Smaller War Plants Corporation unless similar consideration is given to other agencies which are also charged with the responsibility of providing for the welfare of segments of the national economy.

In view of your suggestion that clarifying changes in the bill may be made later, we shall not set forth here a number of changes in language which we think would be desirable to make clear the provision for development of new and alternate uses of war materials, appropriate opportunity for the acquisition of property in connection with Government assisted or financed programs, opportunity for State and local governmental units to fulfill their legitimate needs, and other items of this character.

I should like to take this opportunity to point out that in my opinion the responsibility of the allocation of all foods, irrespective of location or point of distribution, should be centralized in one agency. In view of the broad scope of our responsibilities under war powers and permanent legislation for the allocation of food, we believe that we should have the same power with respect to surplus food.

Secretary Wickard concurs in the views which I have expressed.

Sincerely yours,

MARVIN JONES, *War Food Administrator.*

It might be helpful to ask Mr. Scott, Mr. Clayton's counsel, to tell the committee just what area of difference there is with the War Food Administration, inasmuch as they do not care to be heard. Doubtless these differences have been discussed, have they not?

Mr. SCOTT. Yes, sir; but not in very great detail. As far as I am able to ascertain, there is nothing in this bill that would cut across any statutory obligation of either the War Food Administration or the Commodity Credit Corporation. I do believe, however, that this bill, as now drafted, would not permit the donation for relief purposes of food and, in that respect, it is contrary to the belief that the War Food Administrator has, because it would require them on the one hand to sell and by the same token to purchase in order to maintain prices.

We very carefully kept away from making any suggestions for donations of any kind beyond the one provision in the bill which relates to property which has no commercial value, on the theory that was entirely a matter for Congress, if they felt they wanted to authorize broader donations. For that reason we have not included any such provision in the bill. I do not feel, in that specific instance, that we have any objection to it, but we thought provisions for that type of donation did not properly come from us.

Mr. RUSSELL. Mr. Chairman, I am also authorized to say that Admiral Land is in accord with the bill, with the amendment dealing with the disposal of ships referred to earlier in the hearing.

The CHAIRMAN. Is there anything else?

Mr. COLMER. Mr. Chairman, I have a letter from Congressman Robinson, of Utah, written to Congressman Patton, chairman of the

Select Committee of the Smaller Businesses, of the House, and I would like that to be made a part of the record.

The CHAIRMAN. Yes. Furnish that to Mr. Russell and have it inserted in the record.

(The letter referred to follows:)

SELECT COMMITTEE ON SMALL BUSINESS OF THE  
HOUSE OF REPRESENTATIVES OF THE UNITED STATES,  
Washington, D. C., June 13, 1944.

Re Surplus property legislation.

Hon. WILLIAM M. COLMER,

*Chairman, Special Committee on Post-war Economic Policy and Planning,  
House of Representatives, Washington, D. C.*

DEAR BILL: Your letter of the 9th addressed to Chairman Wright Patman of this committee is being answered by me in my capacity as acting chairman of the House Small Business Committee during the chairman's absence from the city.

You indicate that you would like our chairman to attend a joint meeting of the Senate and House Post-war Economic Policy and Planning Committees on June 16 at which meeting Mr. W. L. Clayton, Surplus War Property Administrator, will appear to discuss the proposed surplus property bill, copies of which he has already furnished to this committee.

You also indicate that you are very hopeful that the various interested committees of the House may reach some uniform conclusion for the handling of this type of legislation. On that point, I feel that this committee is in full agreement.

I assume that the staff of your committee has kept abreast of the various actions taken by the House Small Business Committee on this subject and has kept you currently advised on that subject. In case such is not the case, I would like to review briefly our actions and position to date.

After several hearings held last fall, this committee issued a brief report to the House calling attention to the immensity of this surplus-disposal problem in all of its aspects and recommending early consideration of the matter by the Congress. In order to advance consideration of the matter, the committee unanimously endorsed a bill, H. R. 3873, which Chairman Patman introduced in December of last year.

The bill which Mr. Patman introduced was primarily designed to protect the interests of our smaller businesses in the matter of surplus disposal. As later modified, a revision known as H. R. 4420, it did not attempt to cover the subjects of plant and real-estate disposal, but confined itself to the disposal of consumers goods and other movable surpluses.

The Banking and Currency Committee was engaged in holding hearings on this latter bill when the greater urgency of the Office of Price Administration legislation forced temporary discontinuance of those hearings. The last two witnesses to be heard by the Banking and Currency Committee were Mr. Clayton and Mr. John M. Hancock, coauthor of the Baruch-Hancock Report.

Subsequent to the above hearings, on March 9, 1944, the Small Business Committee issued another report to the House entitled, "The Surplus Property Problem From the Viewpoint of Small Business." As has been the case in all of our committee reports, this report also represented the unanimous opinion of all members of the committee.

Upon receipt of the copies of the bill which Mr. Clayton had prepared and upon notice that the bill was evidently receiving the serious consideration of certain committees in the Congress (see the June 5 report of the War Contracts Subcommittee of the Senate Military Affairs Committee which printed a copy of the bill) the House Small Business Committee undertook to re-examine its position to see if its thinking on this vital subject could be reconciled with the thinking expressed by the Clayton bill.

I am authorized to state that it is the unanimous opinion of the House Small Business Committee that:

1. The Clayton draft does not offer sufficient guaranties in the way of specific principles or procedures to be enacted into law by the Congress to assure us that either the legitimate, competent small businessman or the returning servicemen will be afforded the opportunities to acquire the fair share of these surplus items to which they are entitled.

2. The Clayton draft totally disregards the major recommendations contained in the March 9 report of this committee which were offered with a view to providing adequate protection in this matter to small business firms.

3. For these and other detailed reasons, the House Small Business Committee opposes the adoption of the bill in question in anything like its present form.

It is not my desire to burden you with a lengthy list of the various detailed reasons upon which we base our objections, but a brief summary of our reasons might be of interest to you right at this time. Our principal objections are as follows:

(a) With all due deference to Mr. Clayton, whose ability and integrity are unchallenged as far as this committee is concerned, the committee feels that it is inappropriate to delegate all of the power and discretion outlined in this bill to any one man. For that reason, the committee still holds to its original view that the supreme authority for the handling and disposition of these surpluses should be vested in a Surplus Property Board possessed of more than purely advisory authority.

(b) Because this is primarily a problem which concerns businessmen, large and small, retailers, wholesalers, and manufacturers, the committee feels that specific provisions should be written into any law of this type whereby business advisory committees are appointed for each separate class or type of property. We have been unable to find a definite statement covering this point in the bill in question.

(c) The bill is not sufficiently specific in respect to giving prior right of purchase to established trade channels, all things being equal. The bill says that commercial channels of distribution should be used to the maximum extent consistent with efficient and economic distribution. This clause, on the face of it, might not seem objectionable, but in the absence of a provision which would limit the purchases to be made by any one purchaser to an amount not to exceed the amount of similar purchases made by him in any single year prior to the war, the above clause might be easily interpreted to mean that the most efficient and economic distribution could best be secured by favoring the large chains and mail-order houses to the near exclusion of small distribution outlets.

(d) Speculators are not sufficiently penned off from active participation in these sales in the early stages of disposal proceedings.

(e) Surpluses sold abroad should not be reimportable into this country to the possible detriment of local markets. Surpluses sold abroad should be sold first, where possible, to firms in which American nationals have a substantial share in the management or the ownership. This suggestion is made in the interests of those of our citizens who might seek employment abroad for themselves or their employees in the event that the post-war period finds us in an economic condition where such employment would be helpful in warding off too much unemployment in this country.

(f) No surpluses of any sort should be disposed of to the public by either the War or the Navy Departments. Under this bill, as under procedures presently approved by Mr. Clayton, these departments would be permitted to continue to classify themselves those items which they feel to be surplus and could sell themselves items which they classified as scrap, waste, or salvage. The Utah battery case is still too close in my own memory to permit me to welcome any continuance of this policy. In addition, surpluses developed in the course of settlement of terminated contracts should not be sold by the contractors but should be acquired by the contracting officers for the account of the central disposal agency in the opinion of this committee.

(g) Whereas the bill in question makes it mandatory for the Administrator to confer with Congress in the case of large rubber and aluminum plants which he might have for sale, no such conferring seems to be required in the case of chemical plants, airplane plants, and other large and valuable properties. Furthermore, whereas the Administrator may consult the Attorney General as to possible violations of the antitrust laws which might accrue as the result of such sales as he might make of these large plants, such consultation is apparently not mandatory.

(h) There seems to be no way wherein a small firm or other party whose best interests might not be served by the consummation of a sale to others may appeal or prevent such a sale from taking place if the Administrator desires to carry it through.

The foregoing represent a few of the principal objections this committee has to this particular bill. In listing these and taking this position, the committee wishes to make clear its desire to do anything within its power to expedite early

passage of any bill which will provide an orderly program for the disposal of surpluses which will protect the Government and will, at the same time, protect the small businessman and the returning serviceman within reasonable limits.

To this end, there is attached herewith a suggested revision of the two bills already introduced by Chairman Patman at the request of this committee. This revision, not yet introduced, is an attempt to reconcile our original views with those which we believe are implied in the general statement of principles embodied in the Clayton bill.

Also attached is a copy of the March 9 report of this committee, previously referred to.

It would be deemed a favor, if you consider it proper, if you would include this letter and the attachments in the printed copy of your joint hearing scheduled for Friday, the 16th, to which you so kindly invited our chairman. As stated previously, this letter is written with the knowledge and full approval of all members of the House Committee on Small Business.

With kindest personal regards and an assurance of the willingness of this committee to cooperate with your committee in any way consistent with the above statements, I am,

Sincerely yours,

J. W. ROBINSON,  
*Acting Chairman.*

78TH CONGRESS }  
2D SESSION }

H. R. ———

IN THE HOUSE OF REPRESENTATIVES

Mr. Patman introduced the following bill; which was referred to the Committee on Banking and Currency

A BILL To amend the Reconstruction Finance Corporation Act by adding a new title thereto relating to the sale or other disposition of surplus property of the United States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Reconstruction Finance Corporation Act, as amended, is amended by inserting "Title I," immediately before the first section thereof, by striking out the word "Act" wherever it appears therein as a reference to such Act (except in the short title of such Act), and inserting in lieu thereof the word "title," and by adding at the end of such Act, as amended, the following new title:

"TITLE II

"SHORT TITLE

"Sec. 201. This title may be cited as the 'Surplus Movable War Goods Act of 1944.'

"DEFINITIONS

"Sec. 202. As used in this title—

"(1) The term 'surplus movable war goods' means any movable equipment, machines, accessories, parts, assemblies, products, commodities, supplies, and materials (raw, semifinished, and finished), including shipyard facilities, owned or controlled by any Government agency, whether new or used, in use or in storage, which are in excess of the needs of such agency and are not required for the performance of the duties and functions of such agency and which are determined to be surplus to the function, activity, or project in connection with which the goods were acquired or accrued; *Provided, however,* That this term shall not apply to ships, water-borne craft, real estate, and permanent improvements to real estate.

"(2) The term 'Government agency' means any executive department of the Government or any administrative units or subdivision thereof, any independent agency, regulatory commission, or board in the executive branch of the Government, and any corporation owned or controlled by the United States.

"(3) The term 'disposal' means sale, conditional sale, or lease, for cash, credit, or other property; donation; or any other transfer.

"(4) The term 'disposal agency' means the Reconstruction Finance Corporation or any Governmental agency which has been assigned the operating function of disposal of any surplus movable war goods by the Reconstruction Finance Corporation.

"SURPLUS PROPERTY POLICY BOARD

"SEC. 203. (a) There is hereby established a Surplus Property Policy Board (referred to in this title as 'the Board'), which shall consist of an official of the Government to be designated by the President who shall be the Chairman thereof, the Secretary of War, the Secretary of the Navy, the Secretary of the Treasury, and three individuals to be appointed by the President, by and with the advice and consent of the Senate. The three individuals so appointed shall be businessmen who have had at least five years' experience in the business of the sale and distribution of merchandise.

"(b) The Board (1) shall have general supervision and direction of the handling and disposition of surplus movable war goods;

"(2) Shall have general supervision and direction of the transfer of any surplus movable war goods in the possession of any Government agency to any other Government agency;

"(3) Shall determine the surplus movable war goods under the jurisdiction of the various Government agencies that should be sold, leased, or otherwise disposed of, and shall inform the Reconstruction Finance Corporation as to every such determination: *Provided, however,* That no such determination shall be made which does not meet with the approval and consent of the agency currently owning or controlling said property;

"(4) Shall prescribe regulations and issue directives necessary to provide, so far as practicable, for uniform and wide public notice concerning disposal of surplus movable war goods, and for uniform and adequate time intervals between notice and disposal so that all interested and qualified purchasers shall have a fair opportunity to acquire, and to make public the results of such disposals of property by giving the name of the buyer, and the prices paid, immediately after disposals are consummated;

"(5) Shall determine and prescribe policies, methods, regulations, and procedures, including the fixing of prices and the prohibition of disposals where necessary, which shall govern the disposal of surplus movable war goods during contract termination proceedings and such policies, methods, regulations and procedures shall be binding upon the Joint Contract Termination Board, its successor agencies, the procurement agencies, and all prime and subcontractors, involved in contract termination proceedings; and

"(6) Shall prescribe regulations and issue directives necessary to effectuate the objectives of this title, and no Government agency shall make disposal of surplus movable war goods in contravention thereof.

"DUTIES OF GOVERNMENTAL AGENCIES

"SEC. 204. (a) It shall be the duty and function of the Director of the Bureau of the Budget—

"(1) To coordinate the inventory records of surplus movable war goods in the possession or control of Government agencies;

"(2) After consultation with such agencies and with the Board, to prescribe suitable standards and procedures which, so far as practicable, shall be uniform, for the inventory, classification, and transfer from one Government agency to another of surplus movable war goods; and to devise and prescribe the forms and records to be used and kept in connection with disposal so as to insure proper and uniform accountability control;

"(3) To prepare for the Board such consolidated reports as it may require of all operations under this title;

"(4) To receive and review applications of Government agencies for surplus movable war goods for the purpose of acquiring such property in their behalf from other Government agencies;

"(5) Subject to the approval of the Board, to acquire any surplus movable war goods for transfer to any Government agency needing such goods, providing that such transfers shall only be made upon such terms and with such charges to the appropriations of the transferees in question for the value thereof as the Bureau of the Budget shall prescribe in accordance with existing law.

"(b) Every Government agency (1) shall make and maintain accurate inventories of surplus movable war goods in accordance with the instructions of the Director of the Bureau of the Budget; (2) shall submit to the Board such information and reports with respect to surplus movable war goods in such form and at such times as the Board shall direct; (3) shall cooperate with the Board for the purposes of determining the surplus movable war goods under its jurisdiction; (4) when requested by the Board, shall execute such documents for the transfer of title or shall take such steps as the Board shall determine to be necessary or proper in connection with the disposal of surplus movable war goods; and (5) shall cooperate with the Reconstruction Finance Corporation in connection with the storage, sale, lease, or other disposition of surplus movable war goods under this title.

"DUTIES OF THE RECONSTRUCTION FINANCE CORPORATION

"SEC. 205. (a) Surplus movable war goods shall be sold or otherwise disposed of by the Reconstruction Finance Corporation, except as otherwise hereinafter provided, in a manner consistent with the provisions of this title.

"(b) The Corporation shall appoint an advisory committee for each class of property which is to be sold or otherwise disposed of. The members of each such advisory committee shall be appointed from among persons who, by reason of their business experience, are familiar with the handling and marketing of such class of property, or similar property, and shall include several representatives of established retail and wholesale distribution firms. Representatives of manufacturing firms normally engaged in the production of such class of property, or similar property, may also be appointed on such a committee. In the appointment of such a committee, at least two small businessmen shall be appointed to represent each class of firm represented thereon in the case of manufacturers, wholesalers, or retailers, in the event that any or all of these three classes are otherwise represented on such committee.

"(c) The Corporation shall appoint a sales officer for each class of property to be sold or otherwise disposed of. Each sales officer shall consult regularly with the advisory committee for the particular class of property, the orderly disposal of which is his principal duty. He shall (1) keep the advisory committee constantly advised as to nature and amounts of surplus goods coming within his jurisdiction for disposal, and (2) shall meet at any time with the advisory committee upon request of a majority of the committee's members.

"(d) No movable war goods reported as surplus by any Government agency shall be disposed of to the public until it has been determined, under regulations of the Board, that such property is not needed by any other Government agency.

"(e) Surplus movable war goods shall be disposed of expeditiously and so as to use their economic value, but shall not be disposed of at times or in quantities so that the civilian market cannot absorb them without unduly disturbing trade and commerce, or so that factories producing them are forced to close down. Any surplus movable war goods which cannot be disposed of domestically through established trade channels within a reasonable time without disrupting the economy may be sold abroad and, if sold abroad, shall not be reimported into the United States or its territories or insular possessions. In the event that surplus movable war goods are sold abroad, prior right of purchase, all other conditions being equal, shall be given to firms in which citizens of the United States shall have a substantial share in both the management and ownership of said firms.

"(f) In the sale or other disposition of surplus movable war goods, the Reconstruction Finance Corporation shall be governed by the following considerations:

"(1) Established business concerns which normally trade in the particular class of goods in question, all other conditions being equal, shall have the prior right of purchase; and in every instance of sales where individual bidders and such established business concerns are involved, such business concerns shall not only have prior purchase right, but also the right of usual trade discounts.

"(2) The acquisition of large quantities of such property for speculative purposes shall not be permitted. If, however, there shall develop substantial quantities of surplus movable war goods which, after a thorough testing of markets, cannot be disposed of through established trade channels for reasons of age, obsolete style, semi-processed state, or similar factors, these surpluses may be offered and sold or otherwise disposed of to firms and individuals other than those regularly engaged in the distribution of the class of property in question; provided that any such sale or other disposition shall not be otherwise inconsistent with the provisions of this title.

"(3) No purchaser of surplus movable war goods, except an honorably discharged member of the armed forces, shall be permitted to acquire, in any one year, a larger quantity of surplus goods than the amount of goods of the same kind handled by such purchaser during the year immediately preceding December 7, 1941. An honorably discharged member of the armed forces shall be permitted to acquire sufficient amounts of surplus movable war goods to enable him to set up and maintain an individual enterprise to be conducted personally by him and not as a part of a chain or in conjunction with silent partners, subject to such terms and conditions as may be necessary to insure that the setting up and maintenance of such enterprise will not unduly disrupt normal trade and commerce.

"(4) Such property shall be sold or otherwise disposed of at prices low enough to facilitate the disposition thereof, but high enough to enable the United States to secure a fair return therefor.

"(g) The Corporation may, at its option, and with the consent and approval of the Board, assign certain classes of surplus movable war goods for disposal by other Federal agencies: provided, however, that such assignment of responsibility for disposal shall result in the centralization of responsibility in one disposal agency for the sale, lease or transfer of all surplus movable war goods of the same type or class, and, so far as possible, in the utilization, for disposal of any type or class of property, of the agency to which there has been assigned under Executive Order 9425, dated February 19, 1944, the function of making disposition of such type or class of property. In the event that the Corporation elects to assign its responsibility for disposal of any class of property to another agency, the sales officer of the Corporation for the class of property in question may be selected from or be employed by the agency named to act as disposal agent for the Corporation for the class of property in question. Such disposal responsibility shall be assigned to any agency only with its consent but, in so consenting, such agency must agree to be bound by all of the provisions of this title.

"(h) The sale or lease of surplus movable war goods shall be in accordance with such regulations, not in conflict with the provisions of this title, as the Board shall prescribe regarding the times, places, quantities, and terms and conditions of the proposed disposition of such property; and such regulations shall require advertising for competitive bids except in such cases and with respect to such property as the Board determines that sales or leases by competitive bids would be contrary to the public interest.

#### "EXCLUSIVE METHOD OF DISPOSING OF SURPLUS MOVABLE WAR GOODS

"SEC. 206. No surplus movable war goods shall be sold, leased, or disposed of otherwise than in accordance with provisions of this title, except that where provisions of law are in force specifically authorizing the sale or other disposition of any particular property or class of property, such property or class of property may be sold or otherwise disposed of in accordance with such provisions of law if the Board approves such action as being consistent with the public interest.

#### "DISPOSITION OF NONSALABLE PROPERTY

"SEC. 207. Notwithstanding any other provision of this title, surplus movable war goods which is not salable, or which for any other reason it is impracticable to transfer, sell, or lease as provided in this title, shall be repaired, rehabilitated, donated, destroyed, or disposed of in accordance with such regulations as the Board shall prescribe.

#### "PROCEEDS FROM SALE OR LEASE OF SURPLUS PROPERTY

"SEC. 28. All proceeds from the sale or lease of surplus movable war goods under this title shall be deposited and covered into the treasury as miscellaneous receipts.

#### "MISCELLANEOUS

"SEC. 209. (a) The Chairman of the Board shall receive compensation at the rate of \$12,000 per annum and shall receive no other compensation as an officer or an employee of the United States. He shall also act as the executive officer for the Reconstruction Finance Corporation in its discharge of the duties and functions assigned to it under this title.

"(b) The Board, the Reconstruction Finance Corporation, and any other agencies to whom disposal responsibility is assigned under the provisions of this title are authorized to appoint and fix the compensation, subject to the Civil Service laws and the Classification Act of 1923, as amended, of such employees as may be necessary for the performance by the Board, the Corporation and the other agencies of their respective functions under this title; provided, however, that the sales officers of the Corporation may be employed and their compensation fixed by the Corporation without regard to the Civil Service laws and the Classification Act of 1923, as amended.

"(c) The Board, the Corporation, and the other agencies to whom disposal responsibility is also assigned under the provisions of this title may make such expenditures for supplies, facilities, storage, and services, as may be necessary to carry out the provisions of this title.

"(d) Each member of the Board appointed thereto by the President, by and with the advice and consent of the Senate, shall be paid compensation at the rate of \$25.00 per diem when actually engaged in the performance of his duties under this title, and shall be allowed necessary traveling expenses and subsistence expenses, not in excess of \$6.00 per day, incurred when absent from his place of residence in connection with the performance of such duties.

"(e) There are authorized to be appropriated such sums as may be necessary or appropriate to carry out the purposes of this title."

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[H. Rept. No. 1245, 78th Cong., 2d sess.]

FIFTH INTERIM REPORT OF THE HOUSE SMALL BUSINESS COMMITTEE—THE SURPLUS PROPERTY PROBLEM FROM THE VIEWPOINT OF SMALL BUSINESS

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MARCH 9, 1944.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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Mr. PATMAN, from the Committee on Small Business, submitted the following

## INTERIM REPORT

[Pursuant to H. Res. 18]

The following report is submitted as a supplement to the Third Interim Report of the House Committee on Small Business and represents the unanimous expression of all members of the committee, who are as follows: Wright Patman (Texas), chairman; J. W. Robinson (Utah); Eugene J. Keogh (New York); Henry M. Jackson (Washington); Estes Kefauver (Tennessee); Charles A. Halleck (Indiana); Leonard W. Hall (New York); Walter C. Ploeser (Missouri); William H. Stevenson (Wisconsin).

### INTRODUCTION

For several months various committees of the Congress, including the House Committee on Small Business, have engaged in serious study of the problems arising from the foreseeable accumulation of huge stocks of Government-owned surpluses and the need for devising an orderly program, through legislation, for their control, disposition, and sale. The third interim report of this committee, issued November 1, 1943, quoted the view of numerous authorities that this probable holding in surplus materials, plants, tools, mobile equipment, real estate, and other items would total many billions of dollars by the time the end of the present hostilities is reached.

Some of these congressional committees have concerned themselves principally with the problems of plant and real-estate disposal. Others have devoted more thought to consumer goods. Others have boldly encompassed both of these fields and have also included such diverse items as ships, food, and machine tools in their consideration of the subject.



When we consider the multiplicity of items involved in any detailed study of this problem, when we add to this the identification of scores of different industry groups whose problems both of manufacture and distribution are often unrelated and often competitive, one with the other, it is small wonder that the next evidence of this congressional study by the several committees has been a series of legislative proposals offering administrative prescriptions not all of which are compatible one with the other.

It is, therefore, quite possible that the members of these various committees viewed with mingled feelings of fear and relief the recent publication, on February 15, of the vigorous report of Messrs. B. M. Baruch and John M. Hancock to the Director of War Mobilization, which covered in considerable detail this very vital subject. That report, with its many evidences of careful study, tempered by seasoned judgment, when taken in conjunction with the subsequent Executive order creating the post of Surplus Property Administrator in the Office of War Mobilization, has undoubtedly done much to help crystallize both congressional and business thought on this major question.

The House Committee on Small Business feels that the time has come for a careful review of all pending legislative proposals relating to surplus property disposal. It feels that such review should be taken not only in the light of the Baruch report and its accompanying Executive action, but especially from the viewpoint of the small businessman. The committee feels that it would be delinquent in its appointed duty at this time if it did not point out that it feels that much of the proposed legislation on this subject fails to provide adequate guaranties designed to protect the small businessman and assure him proper consideration in the disposal of these surpluses.

Further, with no intended reflection on either the integrity or the ability of the one just appointed to the post of Surplus Property Administrator, the committee feels that it has not yet seen visible evidence that the Administrator has been provided with or has prepared any book of procedures designed to give adequate protection to small business. He is working under an implied mandate in the Baruch report which says, "the Surplus Administrator should sell all he can as early as he can." Much of the physical detail of selling is apparently still to be vested in some of those Federal agencies which have shown definite evidence of ineptness and disregard of small business interests in the past. The very magnitude of the problem precludes the personal supervision of all sales and their supporting statements of justification by the Administrator. Therefore, this committee feels that it is the positive duty of the Congress to agree on and pass immediately such legislation as will include full and adequate protection of small business interests in the sale of any or all Government-owned surplus property.

#### POINTS OF AGREEMENT

It is gratifying to note that not only the Baruch report but the majority of the proposed legislative measures have certain excellent points in common upon which there seems to be mutual agreement. Some of these include—

1. The establishment of a Surplus Property Policy Board, consisting of several cabinet-level officials and qualified appointees to come from private industry.
2. The delegation of responsibility for actual surplus disposal to one central agency.
3. The advisability of appointing business advisory committees for each type of property to consult with and advise the disposal agency as to time and method of sale of the items in question.
4. The utilization of established trade channels in the disposition of these surpluses.
5. The prohibition of the sale of surpluses to speculative interests.
6. Selling in small lots in order to permit participation in purchases of small businesses as well as large ones.
7. Wide publicity on all sales, both before and after, and the granting of sufficient notice to permit all interested parties ample time in which to prepare proposals for purchase.

#### RECOMMENDATIONS

1. Each of the above seven points of agreement should be included in greater detail in any measure passed by the Congress covering the disposal of any type of Government-owned property declared surplus.

2. The Surplus Property Policy Board should be the final voice in all surplus property matters and the Administrator or General Manager should have full and adequate, but not final, authority.

3. Smaller War Plants Corporation should be given a membership on the Surplus Property Policy Board and should not be represented by or through War Production Board.

4. Title to all surpluses should be vested in the central disposal agency which should supervise and approve all sales of all surplus items. The central agency should consult with but not be bound by the advice of the agency from which the surpluses were received.

(In this connection, it is assumed that the closest working arrangements of a more than temporary nature would be established between the central agency and the respective agencies which have declared as surplus the items in which they have a common interest.)

5. The counsel and data supplied to the central agency by the business advisory committees covering each type of property, in the absence of provable information to the contrary, shall be held the sole basis for the time, place, method, manner, and amount of sales to be held by the central agency, provided that the adoption of such recommendations shall produce the maximum returns to the Government consistent with a policy of using normal trade channels in such a manner that the sales will not unduly disrupt normal trade and commerce.

6. Provision shall be made in the appointment of these business advisory committees for the seating thereon of manufacturers, wholesalers, retailers, or other established distribution firms. No such committee shall be appointed which does not include as members at least two small businessmen who are representative of each of the above classes.

7. Provision shall be made for the lease or sale on credit of these surpluses to thus expand the opportunities of small business.

8. Provision shall be made for the lease or sale on credit of these surpluses to returning servicemen who can present evidence of capability to utilize such surpluses in the establishment or maintenance of their own businesses in such a manner that will not unduly disrupt normal trade and commerce.

9. Provision shall be made for the temporary enjoining of surplus sales through appeal to the Surplus Property Policy Board in those cases where it may be held that the holding of such sales would prove detrimental to the best interests of any firm in the industry in question or where large interests were apparently about to be given undue preference over small firms through the holding of such sales.

10. The patents and other properties now held by the Alien Property Custodian for which there is no obvious military use shall be declared surplus and transferred as to title to the central disposal agency and treated in the same manner as other surpluses.

11. Studies should be made before sale of the Government-owned plants as to possibilities of subdividing the very largest units in order to make them available for acquisition by small business. An easement to the patent rights covering the products manufactured in any Government-owned plant during wartime shall accompany the sale of the plant or any parcel thereof when the plant and its manufacturing facilities have been established for some specialized manufacturing use.

12. Due consideration should be given by the Congress to provisions already contained in H. R. 3873, a copy of which is attached as exhibit A in this report.

(It should be noted that this committee, which acted as sponsor for this measure, no longer urges the inclusion of section 205 (c) (3) in any final measure to be approved by the Congress in this connection.)

#### CONCLUSION

This committee recommends the careful reading of the Baruch-Hancock report, War and Post-War Adjustment Policies, by every person concerned with the vital question of Government-owned surpluses. That report defines small business as "the broad backbone of enterprises, scattered throughout the country, which rely largely on the initiative and resourcefulness of their individual proprietors." With such a definition, this committee is in full agreement. The report also makes several other recommendations designed to further the cause of small business which are worthy of serious consideration by all who have an interest in the future of this important segment of our economic structure.

Notwithstanding this committee's admiration for the Baruch-Hancock report and its obvious clarity, it feels that it cannot and should not be taken as the final word on this subject.

Experience in the past shows us that it has never been sufficient to confine our interest in the problems of the small and weaker elements in our society to general statements of acquaintance and affection. To protect and nourish these elements, we must at times take positive action and implement our principles by a statement of specific policies and procedures. To this end, we commend this vital problem to the immediate and diligent attention of the Congress for handling in a matter consistent with the foregoing recommendations.

#### EXHIBIT A

[H. R. 3873, 78th Cong., 1st sess.]

A BILL To amend the Reconstruction Finance Corporation Act by adding a new title thereto relating to the sale or other disposition of surplus property of the United States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Reconstruction Finance Corporation Act, as amended, is amended by inserting "TITLE I", immediately before the first section thereof, by striking out the word "Act" wherever it appears therein as a reference to such Act (except in the short title of such Act), and inserting in lieu thereof the word "title", and by adding at the end of such Act, as amended, the following new title:

#### "TITLE II

#### "SHORT TITLE

"SEC. 201. This title may be cited as the 'Surplus Property Act of 1943'.

#### "DEFINITIONS

"SEC. 202. As used in this title—

"(1) The term 'property' means any supplies, materials, or equipment, including real estate and improvements thereon or tangible property owned by the United States, or by any corporation owned or controlled by the United States, which is under the jurisdiction or control of any governmental agency.

"(2) The term 'surplus property' means any property which has been declared to the central agency handling surplus property to be surplus to the function, activity, or project in connection with which it was acquired or accrued.

"(3) The term 'Government agency' means any executive department of the Government or any administrative units or subdivision thereof, any independent agency in the executive branch of the Government, and any corporation owned or controlled by the United States.

#### "SURPLUS PROPERTY POLICY BOARD

"SEC. 203. (a) There is hereby established a Surplus Property Board (referred to in this title as "the Board"), which shall consist of the Chairman of the Board of Directors of the Defense Supplies Corporation who shall be the Chairman thereof, the Secretary of War, the Secretary of the Navy, the Secretary of the Treasury, and three individuals to be appointed by the President, by and with the advice and consent of the Senate. The three individuals so appointed shall be businessmen who have had at least five years' experience in the business of the retail sale and distribution of merchandise.

"(b) The Board (1) shall determine and prescribe the methods to be used by governmental agencies in making and maintaining inventories of property, and (2) shall determine the surplus property under the jurisdiction of the various governmental agencies that should be sold or leased, and shall inform the Reconstruction Finance Corporation as to every such determination.

#### "DUTIES OF GOVERNMENTAL AGENCIES

"SEC. 204. Every governmental agency (1) shall make and maintain accurate uniform inventories, in accordance with methods determined and prescribed by the Board, of property under its jurisdiction; (2) shall cooperate with the Board

for purposes of determining which of the property under its jurisdiction is surplus property; and (3) shall cooperate with the Reconstruction Finance Corporation in connection with the sale or lease of surplus property pursuant to the provisions of this title.

“DUTIES OF THE RECONSTRUCTION FINANCE CORPORATION

“SEC. 205. (a) Surplus property which the Board has determined should be sold or leased shall be sold or leased by the Reconstruction Finance Corporation in a manner consistent with the provisions of this section.

“(b) The Corporation shall appoint an advisory committee for each class of property which is to be sold or leased. The members of such advisory committee shall be appointed from among persons who, by reason of their business experience, are familiar with the handling and marketing of such class of property, or similar property. It shall be the duty of the Corporation, in selling or leasing surplus property, to consult with the appropriate advisory committee or committees so appointed as to the price, time, method, and manner of disposing of such property.

“(c) In the sale or lease of surplus property pursuant to this title, the Reconstruction Finance Corporation shall, so far as practicable, be governed by the following considerations:

“(1) Distribution of such property should be through established trade channels.

“(2) The acquisition of large quantities of such property for speculative purposes should not be permitted.

“(3) The prices at which any particular property or class of property is sold or leased should be uniform.

“(4) Such property should be sold or leased at prices low enough to facilitate the disposition thereof but high enough to enable the United States to secure a fair return therefor.

“(5) The sale or lease of such property should be at a rate which will not unduly disrupt trade and commerce.

“(6) The sale or lease of such property should take into consideration the need for facilitating and encouraging the establishment in the various communities in the several States by members of the armed forces of the United States upon their discharge or release from active duty, as well as by others, of small business enterprises and with a view to strengthening small business enterprises.

“(d) The sale or lease of surplus property shall be in accordance with such regulations as the Board shall prescribe regarding the times, places, quantities, and terms and conditions of the proposed disposition of such property; and such regulations shall require advertising for competitive bids, except in such cases and with respect to such property as the Board determines that sales or leases by competitive bids would be contrary to the public interest.

“EXCLUSIVE METHOD OF DISPOSING OF SURPLUS PROPERTY

“SEC. 206. No surplus property shall be sold, leased, or disposed of otherwise than in accordance with the provisions of this title, except that where provisions of law are in force specifically authorizing the sale or other disposition of any particular property or class of property, such property or class of property may be sold or otherwise disposed of in accordance with such provisions of law if the Board approves such action as being consistent with the public interest.

“TRANSFERS BETWEEN GOVERNMENTAL AGENCIES

“SEC. 207. Notwithstanding any other provisions of this title, governmental agencies shall make the fullest practicable utilization of surplus property in order to avoid waste and unnecessary expense, and for such purposes surplus property may be transferred from one governmental agency to another in lieu of its sale or lease pursuant to the provisions of this title. Such transfers shall be made subject to such regulations as the Board shall prescribe.

“DISPOSITION OF NONSALABLE PROPERTY

“SEC. 208. Notwithstanding any other provision of this title, surplus property which is not salable, or which for any other reason it is impracticable to transfer,

sell, or lease as provided in this title, shall be repaired, rehabilitated, donated, destroyed, or disposed of in accordance with such regulations as the Board shall prescribe.

“PROCEEDS FROM SALE OR LEASE OF SURPLUS PROPERTY

“SEC. 209. All proceeds from the sale or lease of surplus property under this title shall be deposited and covered into the Treasury as miscellaneous receipts.

“MISCELLANEOUS

“SEC. 210. (a) The Board is authorized to appoint and fix the compensation, subject to the civil-service laws and the Classification Act of 1923, as amended, of such employees as may be necessary for the performance by the Board of its functions under this title.

“(b) Each member of the Board appointed thereto by the President, by and with the advice and consent of the Senate, and each member of any advisory committee appointed by the Reconstruction Finance Corporation under this title, shall be paid compensation at the rate of \$        per diem when actually engaged in the performance of his duties under this title, and shall be allowed necessary traveling expenses and subsistence expense (not in excess of \$        per day) incurred when absent from his place of residence in connection with the performance of such duties.”

The CHAIRMAN. Is there anything else?

Mr. RUSSELL. Mr. Clayton, would you like to make any further statement?

Mr. CLAYTON. I do not believe so, Mr. Russell, unless the committee would like to ask me some questions.

Senator VANDENBERG. I would like to know one thing, Mr. Clayton, in respect to the time element involved in this legislation. How much time is there safely at our disposal to perfect the bill?

Mr. CLAYTON. Senator Vandenberg, I do not think the time element is so important in this bill as it was in the contract termination bill. We have, I think, ample authority under the Executive order to act. There are some questions that I think the bill helps in materially: In respect, for instance, of giving the different disposal agencies the power to grant title to any party to whom it may sell. Some people have some question about that now but I do not think that is very serious. Of course, if the war should end in Europe rather suddenly, I think it would be very desirable that we have legislation.

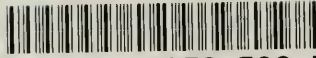
Senator VANDENBERG. If you get it in 30 days, would that, in your judgment, be within the line of safety?

Mr. CLAYTON. Yes, sir.

The CHAIRMAN. Thank you very much, Mr. Clayton. That completes the hearing, then.

(Whereupon, at 11:45 a. m., the committee adjourned.)

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